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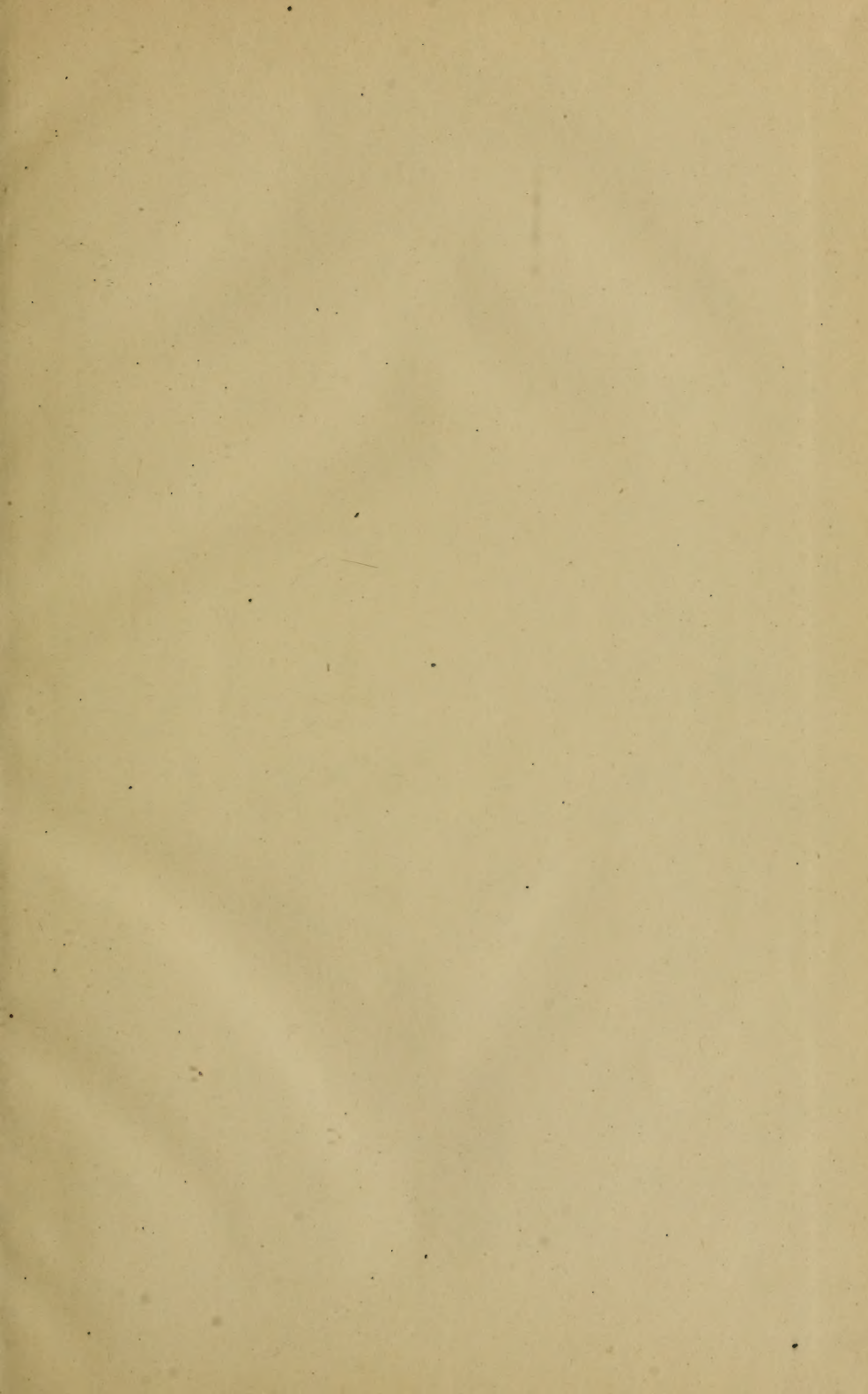
1912













STATE OF CALIFORNIA

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# Horticultural Statutes

WITH COURT DECISIONS AND LEGAL OPINIONS  
RELATING THERETO

ALSO

State Quarantine Ordinances

County Ordinances Relating to Horticulture

AND

List of State and County Horticultural Officers

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Corrected to February 1, 1912

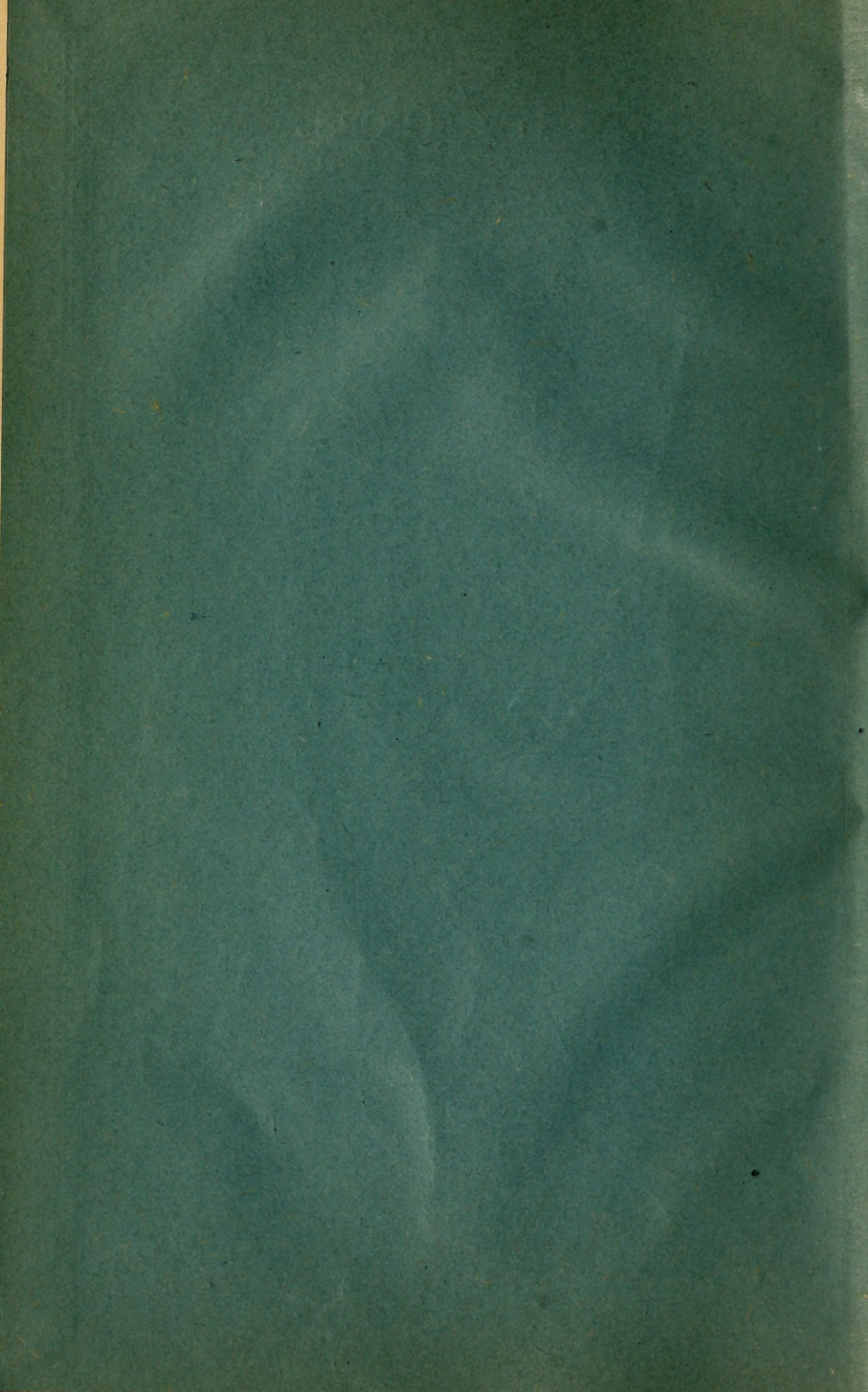


SACRAMENTO

FRIEND WM. RICHARDSON - - SUPERINTENDENT OF STATE PRINTING

1912





STATE OF CALIFORNIA

# Horticultural Statutes

WITH COURT DECISIONS AND LEGAL OPINIONS  
RELATING THERETO

360  
914

ALSO

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List of State and County Horticultural Officers

Corrected to February 1, 1912



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FRIEND WM. RICHARDSON - - SUPERINTENDENT OF STATE PRINTING

1912



SB983  
C2 A2  
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# CALIFORNIA STATE COMMISSION OF HORTICULTURE.

## EXECUTIVE OFFICE.

Capitol Building, Sacramento.

A. J. COOK-----Commissioner.  
G. E. MERRILL-----Chief Deputy Commissioner.  
E. O. ESSIG-----Secretary.  
H. F. FAWCETT-----Plant Pathologist.  
MISS A. G. BIRD-----Clerk.

## INSECTARY DIVISION.

Capitol Park, Sacramento.

E. K. CARNES-----Superintendent.  
H. A. WEINLAND-----Assistant Superintendent.  
Stationed at Honolulu, Hawaii.  
E. J. NEWCOMER-----Assistant.  
E. J. BRANIGAN-----Field Deputy.

## QUARANTINE DIVISION.

Room 11, Ferry Building, San Francisco.

O. E. BREMNER-----Chief Deputy Quarantine Officer.  
FREDERICK MASKEW-----Deputy Quarantine Officer.  
Equitable Bank Building, Los Angeles.  
GEO. COMPERE-----Quarantine Inspector.  
B. B. WHITNEY-----Quarantine Inspector.  
C. H. VARY-----Quarantine Inspector.  
San Pedro.  
A. S. HOYT-----Quarantine Inspector.  
Chamber of Commerce Building, San Diego.

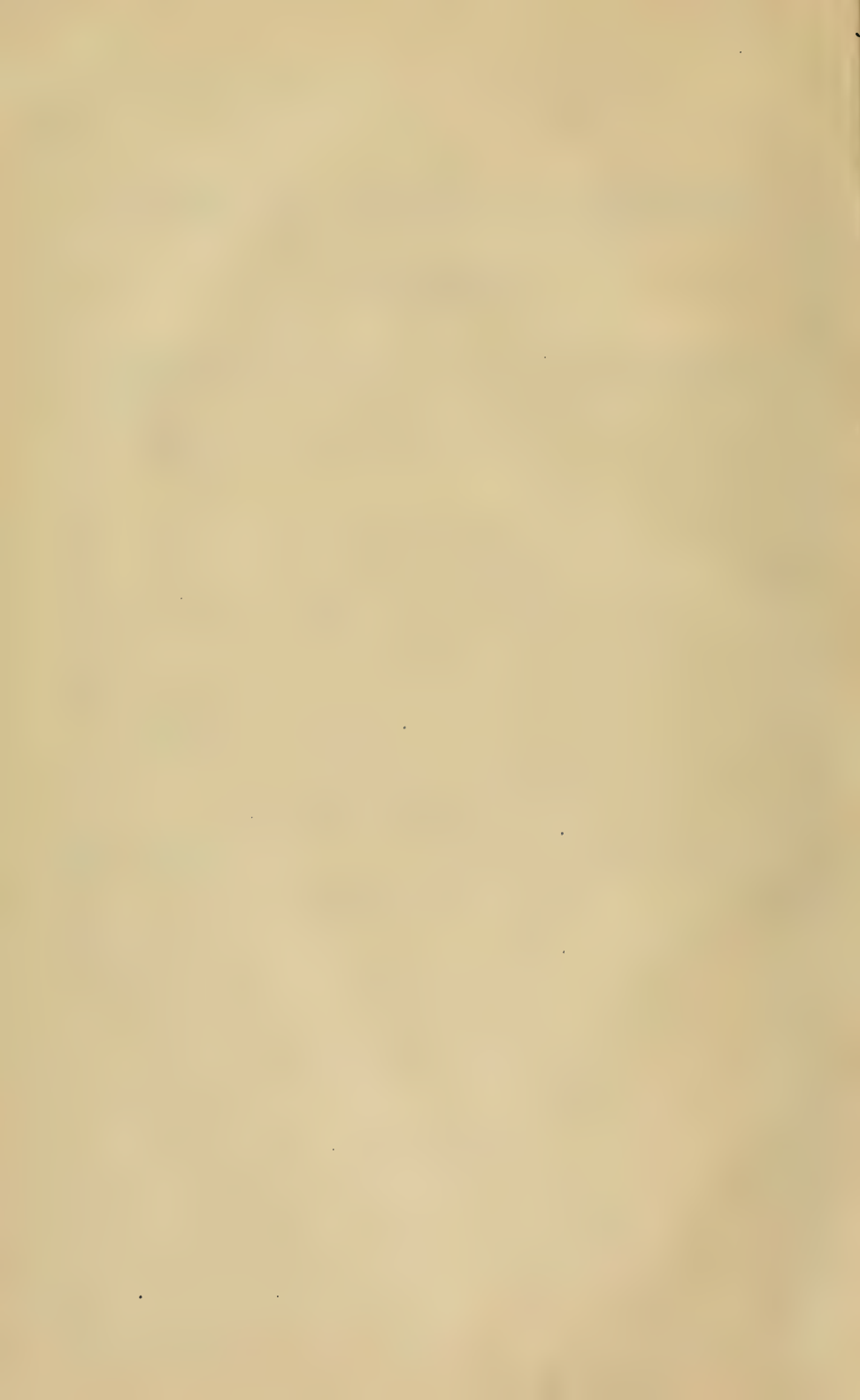
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# CALIFORNIA.

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## STATUTES AND ORDINANCES RELATING TO HORTICULTURE.

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IN FORCE JANUARY 1, 1912.

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### AN ACT RELATING TO THE STATE COMMISSIONER OF HORTICULTURE.

[Approved April 26, 1911.]

§ 2319, Political Code. The state commissioner of horticulture of California shall be a citizen and resident of this state, and his term shall be for four years, and until his successor is appointed and qualified. The governor may remove such commissioner from office at any time upon filing with the secretary of state a certificate of removal signed by the governor. In the case of vacancy in said office by death, resignation, removal from office, or other cause the governor shall fill the vacancy for the unexpired term. In appointing such commissioner and his successor or successors, it shall be the duty of the governor to disregard political affiliations, and to be guided in his selection entirely by the professional and moral qualifications of the person so selected for the performance of the duties of said office. Said commissioner shall be a civil executive officer. The salary of said commissioner shall be four thousand dollars per annum, and he shall be allowed his traveling and incidental expenses necessary in the discharge of his duties. For the direction and accomplishment of his work the said commissioner may and is hereby empowered to appoint certain deputies, secretary, quarantine officers, superintendents, assistants, and clerk as hereinafter provided, who shall hold office at the pleasure of said commissioner and perform any and all duties pertaining to their office or employment which the said commissioner may require of each of them, and may be removed from office or position at any time by said commissioner filing with the secretary of state a certificate signed by said commissioner so removing such deputy, secretary, quarantine officer, superintendent, assistant, or clerk. The traveling and other necessary expenses incurred by the officers and employees herein provided for in the performance of their duties shall be paid from the funds appropriated for the support of the office of the state commissioner of horticulture. Said commissioner may arrange his office into three divisions, to wit: executive



office, quarantine division, insectary and pathological division. Said commissioner may appoint a chief deputy who shall be an expert entomologist and horticulturist and shall have charge of the work in the field and shall represent the commissioner ex officio with the county horticultural commissioners when so authorized in accordance with the provisions of the law. Such chief deputy shall receive a salary of two thousand four hundred dollars per annum. Said commissioner may appoint a secretary, who shall be a civil executive officer. Said secretary shall be versed in horticulture and entomology and shall compile such bulletins and such publications as may issue from the office of said commissioner from time to time, and shall perform all other duties as may be required of him by said commissioner. Such secretary shall receive a salary of two thousand four hundred dollars per annum. Said commissioner may appoint a clerk whose salary shall be one thousand five hundred dollars per annum. The main office of such commissioner shall be at the city of Sacramento. The secretary of state shall furnish and set aside at the capitol a room or rooms suitable for offices for said commissioner, and if the secretary of state shall make and file an affidavit with the said commissioner stating that it is not possible for him, as such secretary of state, to provide and set aside an office for said commissioner in the capitol or in any state building under his control, because there is no such office room or rooms available, then, and after the making and delivery of such affidavit to such commissioner, the said commissioner may rent rooms convenient and suitable for his offices at a rental not to exceed one thousand dollars per year. The office of said commissioner shall be kept open every day except holidays, and shall be in charge of the secretary, during the absence of the commissioner. Said commissioner may also keep and maintain an office in the city and county of San Francisco at a yearly rental not to exceed the sum of five hundred dollars. Said commissioner may appoint for the work of the quarantine division a chief deputy quarantine officer who shall be a skilled entomologist and particularly conversant with the nature of foreign insect pests and diseases and effective means of preventing their introduction, and shall have charge of the commissioner's San Francisco office provided for in this section of this act. Such chief deputy quarantine officer shall receive a salary of two thousand four hundred dollars per annum. Said commissioner may appoint a deputy quarantine officer who shall be a competent entomologist for the purpose of quarantine work. Such deputy quarantine officer shall receive a salary of one thousand eight hundred dollars per annum. Said commissioner shall also properly maintain and operate the state insectary located on the state capitol grounds in Sacramento from funds provided by law for such purpose, and shall appoint for the work of the insectary division a superintendent of the insectary, who shall be an expert entomologist able to perform all the necessary duties with reference to the importation, rearing and distribution of beneficial insects. The salary of the superintendent of the state insectary shall be two thousand four hundred dollars per annum. Said

commissioner may appoint an assistant superintendent of the insectary, who shall be an economic entomologist, at a salary of one thousand eight hundred dollars per annum. Said commissioner may appoint a field deputy for the insectary division, who shall be a practical entomologist and whose salary shall be one thousand five hundred dollars per annum. The salaries of all the officers above mentioned shall be paid at the same time and in the same manner as the salaries of other state officers. Said commissioner may also appoint, by and with the approval of the governor, such temporary deputies from time to time as may be required and such temporary deputies shall receive such reasonable compensation per diem as may be fixed by said commissioner.

§ 2319a. Such commissioner shall collect books, pamphlets and periodicals and other documents containing information relating to horticulture and shall preserve the same; collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; correspond with horticultural societies, colleges and schools, and with the county horticultural commissioners existing or that may exist in this state, and with all other persons necessary to secure the best results to horticulture in this state. He shall require reports from county horticultural commissioners in this state, and may print the same or any part thereof as he may select, either in the form of bulletins or in his annual reports or both, as he shall deem proper. He shall issue and cause to be printed and distributed to county horticultural commissioners in this state, and to such other persons as he may deem proper, bulletins or statements containing all the information best adapted to promote the interest and protect the business and development of horticulture in this state. Such commissioner shall be deemed to be the state horticultural quarantine officer mentioned in that certain act entitled, "An act for the protection of horticulture, and to prevent the introduction into this state of insects, or diseases, or animals injurious to fruit or fruit trees, vines, bushes or vegetables, and to provide for a quarantine for the enforcement of this act," which became a law under constitutional provisions without the governor's approval on March 11th, 1899, for the purposes of that act, and shall be empowered to perform the duties which under that act are to be performed by the state horticultural quarantine officer; *provided*, that in any case where it shall become necessary in the judgment of the state commissioner of horticulture to quarantine a county or district within the state against another or other county or counties or districts within the state, or to quarantine the state or a county or district of the state against another state or a foreign country or countries then it shall be necessary that said quarantine shall be made by and with the approval of the governor as provided in this chapter.

The state commissioner of horticulture may issue commissions as quarantine guardians to the county horticultural commissioners, deputies and inspectors appointed by them.

§ 2319b. Said commissioner may, by and with the approval of the governor, establish, maintain and enforce such quarantine regulations

as may be deemed necessary to protect the nurseries, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, fruit, seeds, vegetables or other articles of horticulture, against contagion or infection by injurious disease, insects or pests, by establishing such quarantine at the boundaries of this state or elsewhere within the state, and he may make and enforce, with the approval of the governor, any and all such rules and regulations as may be deemed necessary to prevent any infected stock, tree, shrub, plant vine, cutting, graft, scion, bud, fruit-pit, fruit, seeds, vegetable or other article of horticulture, from passing over any quarantine line established and proclaimed pursuant to this act, and all such articles shall, during the maintenance of such quarantine, be inspected by such commissioner or by deputies appointed in writing by said commissioner, and he and the deputies so conducting such inspection shall not permit any such article to pass over such a quarantine line during such quarantine, except upon a certificate of inspection signed by such commissioner or in his name by such a deputy who has made such inspection. All approvals by the governor given or made pursuant to this act shall be in writing and signed by the governor in duplicate, and one copy thereof shall be filed in the office of the secretary of state and the other in the office of said commissioner before such approval shall take effect.

§ 2319c. Upon information received by such commissioner of the existence of any infectious disease, insect or pest, dangerous to any article, or to the interests of horticulture within this state, or that there is a probability of the introduction of any such infectious disease, insect or pest into this state or across the boundaries thereof, he shall proceed to thoroughly investigate the same and may establish, maintain and enforce quarantine as hereinbefore provided, with such regulations as may be necessary to circumscribe and exterminate or eradicate such infectious diseases, insects or pests, and prevent the extension thereof, and is hereby authorized to enter upon any ground or premises, and inspect any stock, tree, shrub, plant, vine, cutting, graft, scion, bud, fruit-pit, fruit, seed, vegetable or other article of horticulture or implement thereof or box or package pertaining thereto, or connected therewith or that has been used in packing, shipping or handling the same, and to open any such package, and generally to do, with the least injury possible under the conditions to property or business, all acts and things necessary to carry out the provisions of this chapter.

§ 2319d. Upon the discovery of any infectious disease, insects or pests, such commissioner shall immediately report the same to such quarantine guardians, county horticultural commissioners or county boards of horticulture of such counties as are affected or liable to be affected by the disease, insect or pest, together with a statement as to the best known means or method for circumscribing, exterminating or eradicating the same, and shall state therein specifically what treatment or method should be applied in each case, as the matter may require, with a detailed statement or prescription as to the method of making or procuring and of applying any preparation or treatment so



recommended therefor, and the time and duration for such treatment, and if chemicals or articles be required other than those usually obtainable in any town, the place or places where they are most readily to be obtained; and upon the receipt of such statement by any quarantine guardian, county horticultural commissioner or county board of horticulture, or any member thereof it shall be the duty of such quarantine guardian, county horticultural commissioner or county board of horticulture to distribute such statement in written or printed form to every person owning or having charge or possession of any orchard, nursery stock, tree, shrub, plant, fruits or article of horticulture within their county, where there may be or be likely to be any danger to the interests of horticulture, and such a statement must be served with or be a part of the notice to be given to the owner or owners or person or persons, in possession of any orchard, nursery, tree, shrub, plants, fruits or other articles of horticulture, referred to, provided for, and required to be served in and by section 2 of chapter 183 of the laws of 1897 or any amendments which have been or may be made thereto.

§ 2319*e*. Whenever it shall be necessary to establish quarantine under this chapter, if there be any authorities or officers of the United States having authority to act in such matter, or any part thereof, the said state commissioner of horticulture shall notify such authorities or officers of the United States, seeking their coöperation as far as possible wheresoever the jurisdiction of the United States extends and is being exercised. The said commissioner shall at once notify the governor of all quarantine lines established under or pursuant to this chapter, and if the governor approve or shall have approved of the same or any portion thereof the same shall be in effect and the governor may issue his proclamation proclaiming the boundaries of such quarantine and the nature thereof, and the order, rules or regulations prescribed for the maintenance and enforcement of the same, and may publish said proclamation in such manner as he may deem expedient to give proper notice thereof.

§ 2319*f*. The said state commissioner shall be *ex officio* a county commissioner of horticulture wherever such county commissioner has been appointed or may hereafter be appointed or exist in this state pursuant to law, whenever he is present and acting with said county horticultural commissioner within such county where such commissioner has been appointed.

§ 2319*g*. It shall be the duty of the superintendent of state printing to print and deliver to the state commissioner of horticulture, upon the written request of said commissioner, all such bulletins, orders, rules, regulations, statements, reports and other printed matter, as the said commissioner may deem necessary to have and use for carrying out the purposes of this chapter, and it shall be the duty of the secretary of state to cause to be prepared and furnished to such state commissioner all stationery, paper, blank forms, envelopes, and writing material needful and convenient for use in the office of such commissioner.

§ 2319*h*. It shall be the duty of the state commissioner of horticulture to report in the month of January in each even-numbered year to the governor, and in each odd-numbered year to the legislature of this state the horticultural conditions of the state with statistics regarding the same, the efficiency of the work of the county horticultural commissioners of the state and such other matters as he may deem expedient or as may be required either by the governor or legislature, and to include a statement of all the persons employed and moneys expended under this chapter by itemized statement thereof.

§ 2319*i*. Any person wilfully refusing to comply with orders lawfully made under and pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed five hundred dollars.

§ 2319*j*. All moneys paid hereunder shall be paid by the state treasurer from moneys appropriated for the support of the office of state commissioner of horticulture, and expenses other than the salary of the commissioner, the compensation of his deputies, secretary, quarantine officers, superintendents, assistants, and clerk, as allowed and provided by this chapter, must be certified by the said commissioner and be approved by the state board of examiners before being audited and paid.

## AN ACT RELATING TO THE COUNTY COMMISSIONER OF HORTICULTURE.

### CHAPTER 299.

An act to amend sections 2322, 2322*b*, 2322*c*, 2322*d* and 2322*e* of the Political Code of the State of California, said sections relating to orchards, trees, vines or plants of any variety infested with diseases or scale insects of any kind injurious to fruit, fruit trees, vines or other plants or vegetables, or noxious weeds and to the eradication of insect pests and diseases, and to the appointment and removal of a county horticultural commissioner in the several counties of the state, prescribing his duties and powers and fixing his compensation and term of office, also providing for a state board of horticultural examiners, prescribing the duties of said board and providing for examinations to be taken by persons desiring to qualify for position as county horticultural commissioners; providing for the dividing of the several counties of the state into districts by the respective county horticultural commissioners and providing for the appointment of deputy commissioners, local inspectors and quarantine guardians, prescribing their duties and powers and fixing their compensation.

[Approved March 25, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

§ 2322, Political Code. Whenever a petition is presented to the board of supervisors of any county, or city and county, and signed by twenty-five or more persons each of whom is a resident freeholder and possessor of an orchard, or greenhouse or nursery, stating that certain or all orchards, or nurseries or trees or plants of any variety are infested with any serious infectious diseases, or insects of any kind injurious to

fruit, fruit trees, vines, or other plants or vegetables, or that there is growing therein the Russian thistle or saltwort (*Salsoli kali* var. *tragus*), Johnson grass (*Sorghum halepense*) or other noxious weeds, codlin moth or other insects that are destructive to trees and plants; and praying that a commissioner be appointed by them, whose duties shall be to supervise the destruction of said insects, diseases or Russian thistle or saltwort, Johnson grass or other noxious weeds, as herein provided, the board of supervisors shall immediately notify the state board of horticultural examiners to furnish them a list of eligibles or competent persons as hereinafter provided, and from such list the said supervisors shall appoint a commissioner in accordance with the provisions of this chapter, whose term of office shall be for four years and until his successor shall be appointed and qualified and who shall give a bond in the sum of one thousand dollars for the faithful performance of his duties. The said term of office of any and all county commissioners heretofore or hereinafter appointed shall commence on the date of appointment, and be for a period of four years and until his successor shall be appointed and qualified, at the end of which period the said term shall terminate, and said term shall run with and be attached to said office. In any case where such petition has already been presented or submitted, or is on file at the time of the passage of this act, as the basis for the appointment of a board of horticultural commissioners under this chapter as heretofore existing, such petition shall continue in full force and effect and the board of supervisors of any county, or city and county with which any such petition has been filed, or in which any board of horticultural commissioners has heretofore existed, must appoint a county horticultural commissioner. The person appointed to such position must be specially qualified for his duties and must be chosen and appointed by the board of supervisors from a list of eligible persons recommended and nominated to said board as hereinafter provided, such appointment to be made within thirty days after receipt of said list by said board of supervisors, and the said board of supervisors shall provide a suitable office for the said commissioner and all necessary expenses in the maintenance of said office shall be paid by said board of supervisors. A state board of horticultural examiners is hereby created consisting of the dean of the agricultural college of the University of California, the state commissioner of horticulture and the superintendent of the state insectary, who are ex officio members of said board. They shall serve without pay and said board shall provide convenient means for the examination of candidates for appointment as horticultural commissioner. While in the performance of their duties as members of said board they shall be allowed all their necessary expenses for traveling, printing, postage and other incidental matters to be paid out of any appropriations made for the support of the office of the state commissioner of horticulture. At least thirty days before the date of the examination of candidates for the said appointments the state board of horticultural examiners shall post or cause to be posted in three



public places in said county notice of the time and place at which such examination will be held, setting forth the conditions and subjects of said examination. At the time and place stated and agreed upon such examination shall be held. Said examination shall be in writing and the board of horticultural examiners may appoint one of their own number, or some other reliable, competent person to conduct the holding of such examination in each county and forward the papers of each applicant to the board for consideration. Within twenty days after the examination is held said examiners shall certify to the board of supervisors of the county, or city and county for which the examination was had, the names of such persons examined as they deem competent and qualified for the office and from the list of names so certified the supervisors shall within thirty days after the receipt of said list of names appoint a horticultural commissioner. As far as possible the board of horticultural examiners shall consult the resident horticulturists of the county in determining the responsibility and moral qualifications of candidates for appointment as commissioners and whose names they certify to the boards of supervisors of the several counties. If no person or persons present themselves for examination before said board of horticultural examiners or if after such examination no person is found qualified, the state board of horticultural examiners shall name five competent persons and certify them to the board of supervisors and from these names the board of supervisors shall within thirty days after the receipt thereof appoint a county horticultural commissioner, and in such event the commissioner so appointed shall hold office for the term of one year. In case of a vacancy in the office of horticultural commissioner, the vacancy shall be filled first from the list of eligibles certified to the board of supervisors under the provision of this chapter, and if there be no person named on the said list of eligible persons as in this section first above provided, then said vacancy shall be filled from the list of competent persons named as in this section last above provided, and if said vacancy shall be filled from the said list of eligibles the said person so appointed shall hold for the balance of the unexpired term, but if the said vacancy be filled from the said list of competent persons, the said person shall hold for the balance of the unexpired term, if the said unexpired term be not longer than one year, but if said unexpired term be longer than one year then such person shall not by virtue of such appointment hold longer than one year from the date of his appointment. Whenever elsewhere in the laws of this state reference is made to a county board of horticultural commissioners such reference must be understood to mean or relate to the county horticultural commissioner herein provided for and said county board of horticultural commissioners and the members thereof shall cease to exist as such; *provided*, that all county boards of horticultural commissioners existing at the time of the passage of this act shall continue in office, with full power as heretofore existing until the election or appointment to succeed them, of a county horticultural commis-



sioner under the provisions of this act. Upon the petition of twenty-five resident freeholders who are possessors of an orchard, greenhouse or nursery the board of supervisors may remove said commissioner for neglect of duty or malfeasance in office after hearing of the petition. In case of such removal upon such hearing, the board shall immediately proceed to fill said office for the unexpired term as in cases of vacancy as hereinbefore provided.

§ 2322a. It shall be the duty of the county horticultural commissioner in each county, whenever he shall deem it necessary, to cause an inspection to be made of any premises, orchards or nursery, or trees, plants, vegetables, vines, or fruits, or any fruit-packing house, store-room, salesroom, or any other place or article in his jurisdiction, and if found infected with infectious diseases, scale insects, or codlin moth, or other pests injurious to fruit, plants, vegetables, trees, or vines, or with their eggs, or larvæ, or if there is found growing thereon the Russian thistle or saltwort, Johnson grass or other noxious weeds, he shall in writing notify the owner or owners, or person or persons in charge, or in possession of the said places or orchards or nurseries, or trees, or plants, vegetables, vines, or fruit, or article as aforesaid, that the same are infected with said diseases, insects, or other pests, or any of them, or their eggs or larvæ, or that the Russian thistle or saltwort, Johnson grass or other noxious weeds is growing thereon, and require such person or persons, to eradicate or destroy the said insects, or other pests, or their eggs or larvæ, or Russian thistle or saltwort, Johnson grass or other noxious weeds within a certain time to be therein specified. Said notices may be served upon the person or persons, or either of them, owning or having charge, or having possession of such infested place or orchard, or nursery, or trees, plants, vegetables, vines, or fruit, or articles, as aforesaid, or premises where the Russian thistle or saltwort, Johnson grass or other noxious weeds shall be growing, or upon the agents of either, by any commissioner, or by any person deputed by the said commissioner for that purpose in the same manner as a summons in a civil action; *provided, however*, that if any such infected or infested articles, property or premises as hereinabove specified belong to any non-resident person and there is no person in control or possession thereof and such non-resident person has no tenant, bailee, depositary or agent upon whom service can be had; or if the owner or owners of any such articles, property or premises can not after due diligence be found, then such notice may be served by posting the same in some conspicuous place upon such articles, property or premises, and by mailing a copy thereof to the owner thereof at his last known place of residence, if the same is known or can be ascertained. Any and all such places, or orchards, or nurseries, or trees, plants, shrubs, vegetables, vines, fruit, or articles thus infested, or premises where the Russian thistle or saltwort or Johnson grass or other noxious weeds shall be growing, are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within his

county, and the proper notice thereof shall have been served, as herein provided, and such nuisance shall not have been abated within the time specified in such notice, it shall be the duty of the county horticultural commissioner to cause said nuisance to be at once abated, by eradicating or destroying said diseases, insects, or other pests, or their eggs, or larvae, or Russian thistle or saltwort or Johnson grass or other noxious weeds. The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county. Any and all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated in pursuance of this chapter. A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated, within thirty days after the right to the said lien has accrued. An action to foreclose such lien shall be commenced within ninety days after the filing and recording of said notice of lien, which action shall be brought in the proper court by the district attorney of the county in the name and for the benefit of the county making such payment or payments, and when the property is sold, enough of the proceeds shall be paid into the county treasury of such county to satisfy the lien and costs; and the overplus, if any there be, shall be paid to the owner of the property, if he be known, and if not, into the court for his use when ascertained. The county horticultural commissioner is hereby vested with the power to cause any and all such nuisances to be at once abated in a summary manner.

§ 2322b. Said county horticultural commissioner shall have power to divide the county into districts, and to appoint a local inspector, to hold office at the pleasure of the commissioner, for each of said districts, and may with the consent and approval of the board of supervisors, appoint a deputy horticultural commissioner from a list of qualified persons certified to the board of supervisors by the state board of horticultural examiners, such deputy to hold office at the pleasure of the commissioner. The state commissioner of horticulture may issue commissions as quarantine guardians to the county horticultural commissioner, the deputy and inspectors appointed by him. The said quarantine guardians, local inspectors, deputies or the said county horticultural commissioner, have full authority to enter into any orchard, nursery, place or places where trees or plants or fruit are kept and offered for sale or otherwise, or any house, storeroom, salesroom, depot, or any other such place in their jurisdiction, to inspect the same, or any part thereof.

§ 2322c. It is the duty of the said county horticultural commissioner to keep a record of his official doings and to make a report to the state commissioner of horticulture on or before the first day of October of each year of the condition of the horticultural interests in their several districts, what is being done to eradicate insect pests, also as to disinfecting, and as to quarantine against insect pests and diseases, and as to the carrying out of all laws relative to the greatest good of the horticultural interests, and to furnish from time to time to the state com-

missioner of horticulture such other information as he may require. Said state commissioner of horticulture may publish such reports in bulletin form or may incorporate so much of the same in his annual report as may be of general interest. It is also made the duty of the county horticultural commissioner to advise himself with reference to all infectious diseases, scale insects or codlin moth or other pests injurious to fruit, plants, vegetables, trees or vines, and with their eggs or larvæ and all noxious weeds or grasses that may exist in his county or be likely to exist therein and for the purpose of so advising himself and of eradicating and preventing injury from such causes, and for the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office he shall attend the annual meeting of the state association of county horticultural commissioners, and such other meetings as the state commissioner of horticulture shall require, and he shall be paid his per diem compensation and traveling expenses while so engaged.

§ 2322*d*. The salary of all inspectors working under the county horticultural commissioner is three dollars and fifty cents per day. The salary of the deputy shall be five dollars per day when in the actual performance of his duties and the necessary traveling expenses. In the case of the commissioner himself his compensation shall be six dollars per day when actually engaged in the performance of his duties, and the necessary traveling expenses incurred in the discharge of his regular duties as prescribed in this chapter.

§ 2322*e*. It is the duty of the county horticultural commissioner to keep a record of his official acts, and make a monthly report to the board of supervisors; and the board of supervisors may withhold warrants for salary of said commissioner, deputy and inspectors until such time as such report is made.

## HORTICULTURAL QUARANTINE LAW.

An act for the protection of horticulture, and to prevent the introduction into this state of insects, or diseases, or animals, injurious to fruit or fruit trees, vines, bushes, or vegetables, and to provide for a quarantine for the enforcement of this act.

[Became a law under constitutional provision, without governor's approval, March 11, 1899.]

SECTION 1. Any person, persons, or corporation, who shall receive, bring, or cause to be brought into this state any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit-pits, or fruit or vegetables, shall, within twenty-four hours after the arrival thereof, notify the state horticultural quarantine officer, or the quarantine guardian of the district or county in which such nursery stock, or fruit, or vegetables are received, of their arrival, and hold the same without unnecessarily moving the same or placing such articles where they may be harmful, for the immediate inspection of such state horticultural quarantine officer or guardian. If there is no quarantine guardian or

NOTE.—The Horticultural Quarantine Law approved March 11, 1899, was repealed by the State Quarantine Law approved January 2, 1912. See pages 129 to 132.



state horticultural quarantine officer in the county where such nursery stock, or fruit, or vegetables are received, it shall then be the duty of such person, persons, or corporation to notify the state board of horticulture [state commissioner of horticulture], who shall make immediate arrangements for their inspection. The state horticultural quarantine officer, quarantine guardian, or such person, or persons, as shall be commissioned by the state board of horticulture [state commissioner of horticulture] to make such inspection, or to represent said board [commissioner], are hereby authorized and empowered to enter into any warehouse, depot, or upon any dock, wharf, mole, or any other place, where such nursery stock, or fruit, or vegetables, or other described articles are received, for the purpose of making the investigation or examination herein provided for.

SEC. 2. Each carload, case, box, package, crate, bale, or bundle of trees, shrubs, plants, vines, cuttings, grafts, cions, buds, or fruit pits, or fruit or vegetables, imported or brought into this state, shall have plainly and legibly marked thereon in a conspicuous manner and place the name and address of the shipper, owner, or person forwarding or shipping the same, and also the name of the person, firm, or corporation to whom the same is forwarded or shipped, or his or its responsible agent, also the name of the country, state, or territory where the contents were grown.

SEC. 3. When any shipment of trees, shrubs, plants, vines, cuttings, grafts, cions, buds, fruit-pits, or fruit or vegetables, imported or brought into this state, is found infested with injurious insects, or their eggs, larvæ, or pupæ, or infected with tree, plant, or fruit disease or diseases, the entire shipment shall be disinfected at the expense of the owner, owners, or agent. After such disinfection, it shall be detained in quarantine the necessary time to determine the result of such disinfection. If the disinfection has been so performed as to destroy all insects, or their eggs, and so as to eradicate all disease and prevent contagion, and in a manner satisfactory to the state horticultural quarantine officer, the quarantine guardian of the district, or the person commissioned by said board, the trees, vines, vegetables, seeds, or other articles shall then be released.

SEC. 4. When any shipment of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, or fruit or vegetables, imported or brought into this state, is found infested with any species of injurious insects, or their eggs, larvæ, or pupæ, not existing in the orchards, vineyards, gardens, or farms of California, such infested shipments shall be immediately sent out of the state, or destroyed, at the option of the owner, owners, or agent, and at his or their expense.

SEC. 5. No person, persons, or corporation, shall bring or cause to be brought into the state any peach, nectarine, or apricot trees, or cuttings, grafts, cions, buds, or pits of such trees, or any trees budded or grafted upon peach stock or root that has been in a district where the disease known as "peach yellows" or the contagious disease known as contagious "peach rosette" are known to exist, and any such attempt-

ing to land or enter shall be refused entry and shall be destroyed or returned to the point of shipment, at the option of the owner, owners, or agent, and at his or other [their] expense.

SEC. 6. No person, persons, or corporations shall bring, or cause to be brought into this state any injurious animals known as English or Australian wild rabbit, flying-fox, mongoose, or any animal or other animal or animals detrimental to horticultural and agricultural interests.

SEC. 7. Any person, persons, or corporation violating any of the provisions of this act is guilty of a misdemeanor.

SEC. 8. This act shall take effect and be in force from and after its passage.

## PROPER NAMING OF NURSERY STOCK.

An act to provide for the proper naming of trees, seeds, plants, and vines, sold, offered, or exposed for sale in this state and providing a penalty for the violation of this act.

[Approved March 3, 1905.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. All trees, seeds, plants and vines, sold, offered or exposed for sale in the State of California shall be properly named as to variety and kind, and any person knowingly selling, trading, or exchanging, or offering or exposing for sale any trees, seeds, plants or vines falsely named as to variety and kind shall be guilty of a misdemeanor, and shall be liable to a fine of not less than ten dollars, nor more than three hundred dollars.

## AGAINST SELLING TREES UNDER FALSE NAME.

An act prohibiting the sale of any fruit tree or fruit trees of a certain kind, variety or description and the delivery thereafter with the intent to deceive to the purchaser of a fruit tree or fruit trees of a different kind, variety or description, and providing penalties for the violation thereof, and prescribing the time within which prosecutions under this act may be commenced.

[Approved March 15, 1907.]

SECTION 1. It shall be unlawful for any person, persons, firm or corporation, acting either as principal or agent, to sell, to any person, persons, firm or corporation any fruit tree or fruit trees representing same to be of a certain kind, variety, and description and thereafter to deliver to such purchaser in filling such order and in completing such sale a fruit tree or fruit trees of a different kind, variety or description than the kind, variety or description of such fruit tree or fruit trees so ordered and sold.

SEC. 2. Any person violating any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars, or by imprisonment in the county jail for not less

than twenty days or more than six months, or by both fine and imprisonment.

SEC. 3. Prosecutions under this act may be commenced at any time within seven years from the time of the delivery of such fruit tree or fruit trees mentioned in section one.

SEC. 4. This act shall take effect and be in force from and after its passage.

## STATE INSECTICIDE AND FUNGICIDE LAW.

[Approved May 1, 1911.]

SECTION 1. That it shall be unlawful for any person to manufacture within this state any insecticide, paris green, lead arsenic, or fungicide which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court. Said fines and those specified in section 2 of this act to be paid into the school fund of the county in which conviction is had.

SEC. 2. Any person who shall offer to deliver to any other person or any person who shall sell or offer for sale in this state any such adulterated or misbranded insecticide or paris green or lead arsenate or fungicide which is adulterated or misbranded within the meaning of this act, or export or offer to export the same to any foreign country shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars, or to be imprisoned not exceeding one year, or both, in the discretion of the court; *provided*, that no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the provisions of this act.

SEC. 3. The examination of specimens of insecticides, paris greens, lead arsenates and fungicides shall be made by the director of the agricultural experiment station of the University of California in person or by deputy, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the said director shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so



notified shall be given an opportunity to be heard under the rules and regulations adopted by the United States government for the enforcement of the national insecticide act of 1910, and if it appears that any of the provisions of this act have been violated by such party, then the said director shall at once certify the facts to the proper district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as the said director may determine.

SEC. 4. That it shall be the duty of each district attorney to whom the said director shall report any violation of this act or present satisfactory evidences of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State of California without delay, for the enforcement of the penalties as in such case herein provided.

SEC. 5. In any action, civil or criminal, in any court in this state, a certificate, under the hand of said director, and the seal of said university, stating the results of any analysis purporting to have been made under the provisions of this act, shall be prima facie evidence of the fact that the sample or samples mentioned in said analysis or certificate were properly analyzed as in this act provided; that the substances analyzed contained the component parts stated in such certificate and analysis; and that the samples were taken from the parcels or packages or lots mentioned or described in said certificate.

SEC. 6. That the term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "paris green" as used in this act shall include the product sold in commerce as paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid ( $H_3AsO_4$ ) by replacing one or more hydrogen atoms by lead. That the term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

SEC. 7. That for the purpose of this act an article shall be deemed to be adulterated—

In the case of paris green: First, if it does not contain at least fifty per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one half per centum of arsenic oxide ( $\text{As}_2\text{O}_5$ ); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide ( $\text{As}_2\text{O}_5$ ); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; *provided, however*, that extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of insecticides or fungicides, other than paris green and lead arsenate: First, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used.

SEC. 8. That the term "misbranded" as used herein shall apply to all insecticides, paris greens, lead arsenates, or fungicides or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, paris greens, lead arsenates, or fungicides which are falsely branded as to the state, territory, or country in which they are manufactured or produced.

That for the purpose of this act an article shall be deemed to be misbranded—

In the case of insecticides, paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure they are not plainly and correctly stated on the outside of the package.

In the case of insecticides (other than paris greens and lead arsenates) and fungicides: First, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel or mitigate insects or

fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label; *provided, however*, that in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present.

SEC. 9. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty to afford protection shall contain the name and address of the party or parties making the sale of such articles to such dealer, and an itemized statement showing the articles purchased; or a general guaranty may be filed with the secretary of the United States department of agriculture by the manufacturer, wholesaler, jobber or other party in the United States and be given a serial number, which number shall appear on every package of insecticide or fungicide sold under such guaranty with the words "guaranteed by" (the name of the guarantor) under the insecticide act of 1910; and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

SEC. 10. That the word "person" as used in this act shall be construed to mean both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent, or other person acting for or employed by any corporation, company, society or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association, as well as that of the other person.

SEC. 11. Every lot, parcel, or package of commercial insecticides or fungicides or materials to be used for fungicidal or insecticidal purposes, sold, offered, or exposed for sale, within this state, shall be accompanied by a plainly printed label, stating the name, brand, and trademark, if any there be, under which the insecticide or fungicide is sold, the name and address of the manufacturer, importer, or dealer, the place of manufacture, and a chemical analysis, stating the percentages claimed to be therein, of the substance or substances alleged to have insecticidal properties, specifying the form or forms in which each is present, and the materials from which all constituents of the insecticides are derived. All analyses of substances for which methods have been agreed upon by the American Association of Official Agricultural Chemists, are to be made by such official methods. In the case of those insect-



ticides the selling price of which is less than one half cent per pound, said label need only give a correct general statement of the nature and composition of the insecticide it accompanies.

SEC. 12. The manufacturer, importer, agent of, or dealer in any commercial insecticide, or materials used for insecticidal purposes, the selling price of which to the consumer is not less than one half cent ( $\frac{1}{2}$  cent) per pound, shall, before the same is offered for sale, obtain a certificate of registration from the secretary of the board of regents of the University of California, countersigned by the said university, authorizing the sale of insecticides in this state, and shall securely fix to each lot, parcel, or package of insecticide the word "registered" with the number of registry. The manufacturer, importer, agent, or dealer obtaining such registry shall pay to the said secretary the sum of one (\$1.00) dollar, to be applied as provided in section 18 of this act; such registration shall expire on the thirtieth day of June of the fiscal year for which it was given; *provided*, the provisions of this section shall not apply to any agent whose principals shall have obtained a certificate of registration as herein provided. Every such manufacturer, importer, agent, or dealer, who makes or sells, or offers for sale, any such substances, under a name or brand, shall file, on or before the first day of July, in each year, a statement, under oath, with the director of the agricultural experiment station of the University of California, stating such name or brand, and stating the component parts, in accordance with the provisions of section 11 of this act, of the substances to be sold or offered for sale, or manufactured under each such name or brand.

SEC. 13. The said director shall annually, on or before the first day of September, take samples in accordance with the provisions of section 14 hereof, of the substance made, sold, or offered for sale, under every such name or brand, and cause analyses to be made thereof in accordance with the provisions of section 11 hereof, and said analyses may include such other determinations as said director may at any time deem advisable. Dealers in or manufacturers of insecticides must give free access to the director of the agricultural experiment station, or his duly authorized deputy, to all the materials which they may place on the market for sale in California. Whenever the analysis certified by the said director shall show a deficiency of not more than five per cent of the substance alleged to have insecticidal properties, the statement of the manufacturer or importer, as required in section 11 of this act, shall not be deemed to be false in the meaning of this act; *provided*, that this act shall not apply to sales of insecticidal materials made to a registered manufacturer of insecticides or to sales for export outside of this state; *provided, further*, that the said director of the agricultural experiment station of the University of California shall, upon the receipt of a sample of insecticide, accompanied with a nominal fee of one dollar furnish to the user of said commercial insecticide such examination or analysis of the sample as will substantially establish the conformity or non-conformity of the said insecticide to the guarantee under which it was sold.

SEC. 14. The director of the agricultural experiment station of the University of California, in person or by deputy, is hereby authorized to take a sample, not exceeding two pounds in weight for analysis by the said director or his deputies, from any lot, parcel or package of insecticide or fungicide, or material, or mixture of materials used for insecticidal or fungicidal purposes, which may be in the possession of any manufacturer, importer, agent or dealer; but said sample shall be drawn in the presence of said party or parties in interest, or their representatives. In lots of five tons or less, samples shall be drawn from at least ten packages, or, if less than ten packages are present, all shall be sampled; in lots of over five tons, not less than twenty packages shall be sampled. The samples so drawn shall be thoroughly mixed, and from it two equal samples shall be drawn and placed in glass vessels, carefully sealed, and a label placed on each, stating the name or brand of the insecticide or material sampled, the name of the party from whose stock the sample was drawn, and the time and place of drawing; and said label shall also be signed by the said director or his deputy making such inspection, and by the party or parties in interest, or their representatives present at the drawing and sealing of said samples. One of said duplicate samples shall be retained by the party whose stock was sampled, and the other by the director of the agricultural experiment station of the University of California.

SEC. 15. The director of the agricultural experiment station of the University of California shall publish in bulletin form, from time to time, at least annually, the results of the analyses, hereinbefore provided with such additional information as circumstances may advise.

SEC. 16. There is hereby provided for carrying out the purposes of this act, out of any moneys in the state treasury not otherwise appropriated, the sum of five thousand dollars for each fiscal year hereafter, beginning with the first day of July, 1911.

SEC. 17. All persons charged with the enforcement or execution of any of the provisions of this act shall not directly or indirectly be interested in the sale, manufacture or distribution of any insecticide or fungicide affected by this act.

SEC. 18. All moneys, whether received from registry and analytical fees or special license fees shall be paid to the secretary of the board of regents of the University of California for the use of said board in carrying out the provisions of this act.

SEC. 19. An act to prevent fraud in the sale of paris green used as an insecticide, chapter LIII, page 69, Statutes of 1901, is hereby repealed.

SEC. 20. This act shall take effect and be in force from and after July 1, 1911.

#### QUARANTINE ORDER NO. 1.

##### Pertaining to White Fly (*Aleyrodes citri*.)

SACRAMENTO, March 6, 1906.

WHEREAS, Information has been received by the Commission to the effect that white fly (*Aleyrodes citri*) is prevalent in the states of Florida and Louisiana and that it is found upon a wide range of plants and trees in those states, where it is a

serious, costly, and uncontrollable pest, and that oranges, lemons, citrus and other nursery stock, as well as herbaceous and other plants, are infested with said white fly (*Aleyrodes citri*); and,

WHEREAS, Said *Aleyrodes citri* does not exist upon any fruit, trees or plants in the State of California; and

WHEREAS, There is great danger to be apprehended to the fruit industry of this State from the importation of nursery stock, trees, fruit or plants from infested sections in Florida and Louisiana; therefore,

It is Declared, That a horticultural quarantine be and is hereby established against all fruit, nursery stock, fruit pits, orange seed and plants of all kinds imported from the states of Florida and Louisiana, or any other section known to harbor *Aleyrodes citri*, into the State of California; all horticultural commissioners, local inspectors, and deputies of the State Horticultural Commission are hereby instructed and required to hold any and all such fruit, nursery stock, fruit pits, orange seed and plants of all kinds, subject to the shippers or owners thereof, for exportation out of the State or to be destroyed; provided, that orange seed may be received into the State of California upon compliance with the following conditions:

Every lot of orange seed brought into the State of California from Florida, Louisiana, or other territory infested with *Aleyrodes citri* must be enclosed in a box sufficiently tight and secure to prevent the egress of all insect pests should any be enclosed; every such lot of seed must be shipped to William Wood, Quarantine Inspector, or to any other person authorized in writing by the State Commissioner of Horticulture to receive it; every lot must be delivered at such freight or express office as shall be designated by said William Wood, or other authorized person, and held by him in quarantine until in his judgment the lot should be released. All expense incurred in treating for disinfection of such lot of seed shall be paid by the consignee or owner and the seed shall not be released till the same is paid.

J. W. JEFFREY,

State Commissioner of Horticulture.

Approved by

J. N. GILLETT,

Governor of the State of California.

NOTE—Original order issued March 2, 1906. Amended April 6, 1910. Issued by Ellwood Cooper, State Commissioner of Horticulture. Approved by Geo. C. Pardee, Governor of State of California.

## QUARANTINE ORDER NO. 2.

### Pertaining to Cotton Boll Weevil.

SACRAMENTO, April 23, 1908.

WHEREAS, Information has been received by this Commission to the effect that cotton seed is about to be imported into this State from sections affected with the cotton boll weevil (*Anthonomus grandis* Boh.) and that the same is a serious pest in such sections where it prevails; and,

WHEREAS, The said cotton boll weevil (*Anthonomus grandis*) does not, nor ever has, existed in this State, and that, if introduced, the same would become a serious and dangerous pest, probably spreading to other food plants; and,

WHEREAS, The cotton boll weevil (*Anthonomus grandis*), while not attacking the seed of the cotton plant, may hibernate in the hulls or be carried in the mass, and thus become established in new locations; therefore, acting upon information received from and a request made by the Bureau of Plant Industry of the Department of Agriculture of the United States, it is hereby

Ordered, that no cotton seed shall be admitted into this State and a horticultural quarantine is hereby established against the same except under the conditions herein set forth:

First, that in addition to the offices of the State Commission of Horticulture, Capitol Building, Sacramento, and Room 11 Ferry Building, San Francisco, El Centro in Imperial County, San Bernardino in San Bernardino County, Riverside in Riverside County, Los Angeles in Los Angeles County, and San Diego in San Diego County, are hereby declared horticultural quarantine stations for the inspection of all cotton seed coming or being imported into this State.

Second, the Board of Horticultural Commissioners of each of said counties, and each of them, is hereby declared a special deputy commissioner of horticulture for the purpose of enforcing this order; and it is further

Ordered, That all cotton seed brought or imported into this State shall be inspected in the county into which it is brought by one of the deputy commissioners above



named. It shall then be subjected to fumigation in a closed vessel, with bisulphide of carbon gas for a period of twenty-four hours, and shall then be held by the deputy commissioner for a sufficient time to satisfy said deputy commissioner that all possibility of infestation is removed. For the purpose of more effectively enforcing the quarantine against the cotton boll weevil, it is further

*Ordered*, That all cotton seed, shipped or imported into this State, shall be consigned to the Horticultural Commission of one of the above named counties, to be by them delivered to the consignee when they are fully assured that there is no danger of infestation.

This quarantine shall go into effect *immediately* upon its approval by the Governor.

(Signed) J. W. JEFFREY,  
State Commissioner of Horticulture.

Approved:

J. N. GILLETT,  
Governor of the State of California.

### QUARANTINE ORDER NO. 3.

#### Pertaining to Tulare County.

SACRAMENTO, CAL., January 17, 1910.

WHEREAS, The State Commissioner of Horticulture has determined from common report, from personal inspection and from the report of the State Quarantine Officer that the commercial citrus fruit trees and all others as far as examined in Tulare County are entirely free from the red scale (*Chrysomphalus aurantii*), black scale (*Saissetia oleae*), purple scale (*Lepidosaphes beckii*), and other scales detrimental to the production of fruit; and

WHEREAS, There is continual danger of the introduction of the said scales and others into Tulare County; and

WHEREAS, A reasonable quarantine regulation would protect the fruit interests of the said county without violating the rights of other sections; therefore,

*It is declared*, That a quarantine be and is hereby established against the importation of all fruit and nursery stock and plants into Tulare County, and the Horticultural Commissioner, his deputy and all his inspectors, are hereby instructed to hold and cause to be returned to the points where the shipments originated all such stock found within the said county of Tulare; it is unlawful, during the continuance of this order for any railroad, express, or other company or individual to bring or cause to be brought into said county such stock or to receive it for delivery; provided, that all such nursery stocks and plants may be delivered and received at Porterville, Lindsay, Exeter, Tulare, Visalia, Ducor, and Dinuba, all within the said county; and it is hereby declared that the above named stations are in no way affected by this order, and at the places named all such stocks may be received and will be promptly inspected, and if found clean they will be released.

(Signed) J. W. JEFFREY,  
State Commissioner of Horticulture.

Approved:

J. N. GILLETT,  
Governor of the State of California.

### QUARANTINE ORDER NO. 4.

#### Pertaining to Melon Fly (*Dacus cucurbitae*.)

SACRAMENTO, March 28, 1910.

WHEREAS, From information that has been received by this Commission, and the fact having been duly determined by the Commission, it appears that a certain fruit and vegetable fly known as *Dacus cucurbitae* is prevalent in the Hawaiian Islands, and very destructive to watermelons, muskmelons, cucumbers and tomatoes on these islands, and that the said *Dacus cucurbitae* is not known to exist in the State of California; and,

WHEREAS, The introduction of this fly into the State would entail great and irreparable losses to the horticultural products subject to its attacks; and,

WHEREAS, The most rigid inspection can not determine the presence of the larva maggot of this fly without the destruction of the fruit or vegetable which may be infected; therefore,

*It is ordered*, That a horticultural quarantine be and is hereby established against watermelons, muskmelons, cucumbers and tomatoes imported from the Hawaiian

Islands or other territory known by the State Commission to contain infection of the *Dacus cucurbitae*, and all deputies of the State Commission of Horticulture, County Horticultural Commissions, and horticultural quarantine officers are hereby instructed to hold all such fruits or vegetables above described for exportation out of the State or to be destroyed as may be directed by the owner or consignee.

(Signed) J. W. JEFFREY,  
State Commissioner of Horticulture.

Approved:

J. N. GILLETT.

Governor of the State of California.

## MEDITERRANEAN FRUIT FLY.

By far the most alarming development of fruit pests of foreign origin is the appearance of the Mediterranean fruit fly in the gardens and orchards of Honolulu. The invasion of this insect was discovered by the horticultural officials of Hawaii last October, and a campaign is now under way for its eradication involving the expenditure of a large sum of money. This will lessen the danger of California orchards becoming contaminated from this source, but it does not make protective measures any less imperative locally, for the pest may be impossible of extirpation, and remain a continual menace to the fruit industry of the United States:

### QUARANTINE ORDER NO. 5.

#### The Mediterranean Fruit Fly.

(Issued June 24, 1911.)

SACRAMENTO, CAL., June 24, 1911.

WHEREAS, The State Commissioner of Horticulture has received official notification from the Board of Agriculture and Forestry of the Hawaiian Islands that an insect known as the Mediterranean Fruit Fly (*Ceratitis capitata*) has become established on the island of Oahu; and

WHEREAS, The deputy horticultural quarantine officers at the port of San Francisco have discovered and properly identified this fruit fly (*Ceratitis capitata*) in fruit and vegetables brought in both as freight and personal baggage from the port of Honolulu, Hawaiian Islands; and

WHEREAS, The introduction of this fruit fly (*Ceratitis capitata*) into California would entail irreparable losses to our fruit, vine and vegetable interests;

It is hereby ordered, directed and declared, That a quarantine be and the same is hereby established in accordance with section 2319b of the Political Code of the State of California, against the importation of all fruits, vegetables, berries, seed-pods, etc., either cultivated in the orchards or gardens or growing wild in the Hawaiian Islands, with the exception that pineapples, bananas, and all root crops, the edible portions of which during growth have always been beneath the surface of the soil, shall be admitted at the ports of the State of California after having been duly inspected; provided, that any or all of these exempted fruits or vegetables, if at any time hereafter shall be found to contain upon inspection the egg, larvæ or pupæ of the fruit fly (*Ceratitis capitata*) they shall be immediately included in the list of quarantined fruits and vegetables. The fruit or vegetables quarantined against in this order shall be immediately returned to the port from which they were shipped or destroyed at the option of the owner, consignee or agent. In no case shall such quarantined fruits be allowed to be transported over, repacked or stored upon any dock, warehouse, barge or other property within the jurisdiction of the State of California, excepting the ship in which they were originally brought, or to which they are at once transferred. All deputies of the State Commission of Horticulture, or state quarantine guardians are hereby empowered to carry out the provisions of this order.

J. W. JEFFREY,  
State Commissioner of Horticulture.

Approved:

HIRAM W. JOHNSON,

Governor of California.

Important as this new and sweeping order may be, unless the methods of handling ship inspections are thorough, we can not expect reasonable protection. Our quarantine laws have always been defective, in that they do not, and perhaps can not, enforce the inspection of private baggage carried by passengers upon transportation lines. The Attorney General's office has been appealed to, and has held that opening personal baggage to determine whether it contained contraband articles under such as the above order would involve intricate legal points, and no one has been able to suggest an amendment to our quarantine acts that would avoid the complications following the invasion of personal liberty necessary to thoroughly inspect private baggage. Whether the State of California could establish this right of search, as it has been established by the United States customs laws can not be determined at this time, and the emergency now under consideration impelled us to adopt a new policy that promises to be entirely satisfactory and protective.

All baggage arriving on vessels from foreign ports is opened and inspected for dutiable goods by the customs officials, and by agreement with the Federal authorities the horticultural quarantine deputies are on hand to look through the baggage and take possession of quarantined or infected fruits, plants, etc. But the vessels coming in from domestic territory are not visited by the customs officers and it is from this source our greatest danger has originated. How to reach the baggage of passengers coming on the Hawaiian steamers became a most important question. A conference was held with the officials of the Matson Navigation Company and the Oceanic Steamship Company in June, and the following proposition made to them:

1. A contract to be attached to each passenger ticket and signed by the purchaser at Honolulu, reading as follows:

"One of the conditions of this ticket is that the quarantine regulations of the State of California will be conformed to in regard to the inspection of horticultural products. I hereby agree to the inspection, by the quarantine officials of the State Commission of Horticulture, of all my personal effects upon my arrival at San Francisco."

2. A notice to be handed to each passenger, as follows:

Under and in pursuance to an act of legislature of the State of California, approved March 25, 1903, and acts amendatory thereof, it is the duty of the State Commissioner of Horticulture of the State of California, by and with the approval of the Governor of said State of California, to establish, maintain and enforce such quarantine regulations as may be deemed necessary to protect the vegetable and tree growths of said State against contagion or infection by injurious diseases, insects or pests.

*And it is therefore necessary* in order to maintain such quarantine and protective measures, that all trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit, vegetables or other articles of horticulture of all and every kind and nature be inspected by such commissioner, or by a deputy or other official properly appointed to make such inspection; and

WHEREAS, It is necessary in rendering effective such inspection of such articles of horticulture that inspection and examination shall be had of all trunks, valises, handbags, satchels, suit-cases, boxes, packages or parcels of every kind and character upon arrival of the ship at the port of entry into the State of California; and

WHEREAS, It is the duty of steamship corporation and company operating the ship



or vessel hereinabove referred to, to prevent and assist in preventing the introduction into the State of California of any such articles of horticulture which are liable to be infested with or being affected by injurious disease, insects or pests;

*Now, therefore*, passengers are hereby notified that said passengers must open in the presence of the proper officer representing the State Commissioner of Horticulture of the State of California, at the port of San Francisco, all the personal baggage and effects of all kinds and nature whatsoever of said passengers, and permit said officer representing said State Horticultural Commissioner to inspect the contents of said personal baggage and effects, for the purpose of examining and inspecting any plants, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, fruit, vegetables or other articles of horticulture, tree or plant growth contained in or annexed to said personal baggage and effects.

The term article of horticulture used herein includes and is intended to mean all shrubs, trees, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit, vegetables or other articles of horticulture.

The term personal baggage and effects used herein means and is intended to include all trunks, valises, satchels, suit-cases, boxes, packages, rolls, mats, bundles, baskets and any and all other articles containing personal effects of said passengers.

3. The officers of the ships to be personally instructed by the steamship companies to coöperate in every way to prevent the bringing in of any horticultural products whatever from the Hawaiian Islands, either by passengers or crews.

4. The steamship companies to detain the passengers in a corral, permitting them to leave with only such baggage as has been inspected.

NOTE.—The first trial of baggage searching occurred on June 27th, when the rival steamers *Sierra* and *Wilhelmina* arrived at San Francisco on the same hour, the former with 187 and the latter with 145 passengers, carrying altogether 646 pieces of baggage. The passengers were held, every piece of baggage opened, searched and tagged out. These new regulations are much more satisfactory than the old plan of inspection. They will prove effective, and they gave no offense to the passengers in the severe trial given in the cases above cited. It is believed the question of proper inspection is now settled as effectually as if it were possible to enforce the opening of private effects by law.

#### FEDERAL CO-OPERATION.

On the thirteenth day of July the chief deputy quarantine officer addressed a letter to the Army Transport Service requesting action prohibiting the transport boats from receiving fruits, vegetables, etc., in compliance with Quarantine Order No. 5. The following action was taken by the superintendent:

OFFICE ARMY TRANSPORT SERVICE, 1068 NORTH POINT STREET,  
SAN FRANCISCO, July 15, 1911.

General Orders, No. 10.

Owing to the existence in the Hawaiian Islands of an insect which is injurious to fruits, etc., and commonly known as the fruit fly, all baggage and parcels belonging to members of the crew or other persons will be subject to inspection at San Francisco by Government officials, and must not contain any fruits, vegetables, berries, seed pods, etc., except pineapples and bananas.

No passenger or member of the crew of any army transport will be allowed to bring aboard at Honolulu any of the above described products of any kind whatsoever.

Hereafter the army transports will not accept from Honolulu, for delivery at San Francisco, any shipment of the above described products.

Enclosed herewith is Quarantine Order No. 5, also copy of a pamphlet entitled a *Fruit Fly Menace*.

Transport quartermasters will take such steps as may be necessary to enforce the provisions of this order.

H. P. YOUNG,  
Major and Q. M. U. S. Army, General Superintendent.

## POTATO EELWORM.

Early in January of the present year the horticultural commissioner of Sacramento County discovered the eelworm in a carload of potatoes upon the local market. This pest is not known to exist in California, and, as the destruction of the lot might involve litigation, the infestation was handled through a regular quarantine order which was made the basis for disposing of many carloads of similarly infested potatoes from a small valley in Nevada. The Sacramento car was sent back to Reno, where the potatoes were transferred to another car, shipped to Los Angeles, and there held up and sent back again to Nevada. In such cases as this the quarantine officers should have the authority to destroy the lot, regardless of the wishes of the consignor.

Meantime, circulars of warning had been sent all over the State, resulting in the discovery of nearly a dozen infested lots at Bishop, Independence, San Francisco and Sacramento. As there were no quarantine guardians in the State at this time these shipments were disposed of at great disadvantage. No such trouble can occur since the law of 1911 has become effective. This incident has caused the Nevada State University to make an investigation of the infested area, and steps will be taken there to eradicate the pest. Quarantine guardians should be vigilant in the inspection of farm produce, for the spirit of the law does not confine their activities to horticultural protection. It will be noticed that the order below is in form different from the preceding orders. The secretary in this case quarantined the car upon his authority as an officer of the State Commission, and it was not necessary for the Governor or the Commissioner to approve this order. It will be held by the Commissioner that a quarantine order of temporary nature and one not involving the quarantining of a territory, may be legally made by any authorized deputy or state quarantine guardian. The following is the order, and it may serve as a form for use by the latter:

### The Potato Eelworm.

(Issued January 6, 1911.)

*Wood, Curtis & Co., Sacramento, Cal.*

GENTLEMEN: This is to certify that I have this day inspected a carload of potatoes (1843 P. F. E.), containing 251 sacks, consigned to you and shipped by G. Boni Nucci from Canty, State of Nevada, and have found the same to be badly infested with a nematode worm (*Tylenchus devastatrix*), a parasitic worm destructive to potatoes, which does not exist in this State.

In accordance with section 4 of the horticultural quarantine law of the State of California, I hereby order this carload (251 sacks) of potatoes shipped out of the State of California, or destroyed at your option, within forty-eight hours from the serving of this notice.

(Signed) O. E. BREMNER,  
Secretary State Commission of Horticulture.

## QUARANTINE ORDER NO. 6.

## Potato Eelworm.

(Issued November 27, 1911.)

SACRAMENTO, CALIFORNIA, November 27, 1911.

WHEREAS, Potatoes from Lyon, Churchill, and Washoe counties in the State of Nevada, shipped into California, have been discovered to be infested with Eelworm (*Tylenchus devastatrix*), a destructive Nematode worm; and

WHEREAS, The planting and throwing of such potatoes or parts thereof on the earth, would likely infest the soil with this serious pest; and

WHEREAS, Once in the soil, its riddance is almost impossible; therefore, a horticultural quarantine be and *is hereby declared and established*, against all potatoes shipped from the counties of Lyon, Churchill and Washoe, State of Nevada, into the State of California, and all horticultural commissioners and local inspectors are instructed to destroy or return infected potatoes from the counties aforesaid to the place of shipment, at the option of the shipper or his agent, and to take all proper precautions against the introduction of the Eelworm into the State of California.

(Signed) A. J. COOK,

State Commissioner of Horticulture.

Approved:

(Signed) HIRAM W. JOHNSON,

Governor of California.

## QUARANTINE ORDER NO. 7.

SACRAMENTO, CALIFORNIA, December 23, 1911.

WHEREAS, We have reason to believe that several districts more or less restricted in area, in the three counties of Nevada, viz., Lyon, Churchill and Washoe, which on November 27th, 1911, were quarantined against the potato eelworm, are free from this pest and ought not in justice to the growers and to our people as well be denied entrance to California; and

WHEREAS, It is impracticable to exclude said district from the quarantine; therefore,

*Resolved*, That we declare the said quarantine revoked and permit all potatoes from Nevada to enter this State, but all such potatoes must be carefully inspected upon arrival, and if a single potato is found to harbor the eelworm, the entire car will be ordered out of the State or destroyed, at the option of the shipper.

(Signed) A. J. COOK,

State Commissioner of Horticulture.

Approved:

(Signed) HIRAM W. JOHNSON,

Governor of California.



## COURT DECISIONS IN HORTICULTURAL CASES.

### APPOINTMENT OF COUNTY BOARDS MANDATORY.

#### Decision of Superior Court of Sonoma County.

A mandamus suit was brought against the Board of Supervisors of Sonoma County; and Hon. John G. Pressley, Judge of the Superior Court of Sonoma County, on the 19th day of June, 1889, rendered the following decision, in which the validity of the act directing the boards of supervisors to establish county boards of horticultural commissioners is sustained:

E. A. ROGERS

vs.

THE BOARD OF SUPERVISORS OF SONOMA COUNTY.

John Goss, Esq., attorney for plaintiff.

On the 19th day of March an act of the legislature was approved, entitled "An act to amend an act entitled 'An act to protect and promote the horticultural interests of the state,' approved March 14, 1881."

This act (of March, 1889) provides that, "Whenever a petition is presented to the board of supervisors of any county, and signed by twenty-five or more persons who are resident freeholders and possessors of an orchard, or both, stating that certain or all orchards or nurseries, or trees of any variety, are infested with scale insects \* \* that are destructive to the trees and praying that a commission be appointed by them, whose duty it shall be to supervise their destruction, as herein provided, the board of supervisors shall, within twenty days thereafter, select three commissioners for the county, to be known as a county board of horticultural commissioners."

The duties of the board so appointed are declared by the act. It appears from the complaint that, in accordance with this act, a petition was presented to and filed with the board of supervisors, signed by this plaintiff and twenty-six other persons possessing the qualifications prescribed by the act, praying for the appointment of a county board of horticultural commissioners for Sonoma county, and a demand was made on the supervisors that they carry into effect the provisions of the act, and appoint the commissioners.

The board refused to appoint commissioners.

Twenty days have expired since the filing of the petition and the demand for action upon it, and still the board of supervisors refuse and neglect to make any selections or appointment of commissioners.

This action is brought for a writ of mandate compelling the board of supervisors to make the selection and appointment as required of them by the act.

A demurrer has been interposed to the complaint, and in support thereof it is contended:

*First*—That the act of 14th of March, 1881; of which the act of 19th

of March is amendatory, was repealed by an act approved 13th of March, 1883, which provides for the appointment by the Governor of a state board of horticulture, and that in consequence of the act of 1889 being an amendment of a repealed statute, it is nugatory.

The act of 1883 does not, in express terms, repeal the act of 1881, nor is that act elsewhere expressly repealed. It is a well-settled legal principle that repeals by implication are not favored. A subsequent act does not by implication, repeal a prior statute, unless the subsequent one entirely covers the provisions of the first, and so completely that every portion of the first is provided for by the second. There must appear an intent to entirely substitute one for the other.

Says Bishop in his work on Statutory Crimes, section 154:

“We have seen that every legislative act in affirmative words is to be regarded, *prima facie*, as an addition to the mass of law; for such on its face it purports to be. Yet when it is inconsistent with the former law, it must, as the last expression of the legislature will, prevail. But repeals by implication, thus explained, are not favored. And a legislative intent to repeal an existing statute is never presumed. If two acts, seeming to be repugnant, can be reconciled by any fair construction, they must be, when no appeal will be held to take place.”

The same principle is laid down by Judge Field in the case of *Pierrepont vs. Crouch*, 10 Cal. 316.

There are numerous other authorities to the same effect.

Is there any apparent intent to substitute one of these acts for the other, or such repugnance as would destroy the first? Let us see. The first provides for a county board of horticulture. The second for a state board. The first prescribes duties to be performed by county boards of supervisors. The second prescribes duties to be discharged by the Governor. The first provides for a board of three commissioners with local jurisdiction. The second for a board of nine commissioners with a jurisdiction coextensive with the state. The first authorizes boards created by its authority to divide counties into districts. The second creates districts composed of several counties. The first requires duties to be performed by county boards which are not required by the second. of the state board. For instance: The first provides for proceedings against persons who, after notice, fail or refuse to treat infested trees as directed by the board, and a destruction of trees by such board when directed by a court. No such proceedings and destruction are provided for by the second. There are other differences between the two acts which might be pointed out, but these are sufficient to show that there is no such similarity in the powers of the boards created by them as would necessarily cause a conflict between these boards, or would justify a court in holding that one act repeals the other. I must, therefore, hold, that the act of 1881 was not repealed by the act of 1883, and was in full force when the amendatory act of 1889 was passed. The act of 1883

is an addition to the then existing legislation, and not a substitute for the act of 1881.

*Second*—It was contended that acts of the legislature which provided that a duty imposed shall be performed within a certain time are directory and not mandatory. I can not assent to that proposition. Where a court or board is directed by law to perform an act in a given time, the law, unless it declares the act may not be done after the expiration of the time, is so far directory as that the act is valid though done after the time fixed, but is not directory in the sense that the duty or act directed may be entirely disregarded or omitted. The time is given that the board may have ample opportunity to act intelligently and with good judgment, but not to enable the board or officer of whom the duty is required to disregard it entirely. I have no doubt but that the board of supervisors is required by the law in question to appoint a county board of horticultural commissioners, and that it may be lawfully done after the expiration of the twenty days given them in the act for deliberation.

Counsel referred to some authorities from other states in support of his contention. I do not think these authorities go to the extent claimed by him, and if they did, there being no such decision by our own Supreme Court, I would hold the law in this state to be different. The purpose of the legislature was to give the supervisors time to make judicious selections, and not to justify or authorize an annulment of the legislative will expressed by the statute.

JOHN G. PRESSLEY, Judge.

#### ENFORCEMENT OF THE HORTICULTURAL QUARANTINE REGULATIONS.

In a case brought before the Superior Court of Los Angeles, the constitutionality of the act of 1881, as amended, was questioned as to its enforcement, and upheld. It was an action brought to declare a shipment of orange trees from Tahiti a nuisance and have them destroyed, they being infested with injurious insects, etc. The findings of the court are as follows:

This is an action brought by the District Attorney of the county of Los Angeles, in the name of the people, for the condemnation, and abatement as a nuisance, of certain trees. The complaint alleges that in June, 1891, the defendants brought from Tahiti to San Pedro, in the county of Los Angeles, certain orange trees, numbering about 325,000, and that the same were, and still are, infested with scale insects and other pests injurious to fruit trees. That the horticultural commissioners of the county of Los Angeles notified defendants that the trees were so infested, and required them to eradicate and destroy the insect pests thereon. That defendants caused the process of disinfection to be performed upon said trees, but said process was unsuccessful, and, although frequently repeated, has not eradicated or destroyed said insects. That among said insects is a scale insect hitherto unknown in the State of California, which can not be destroyed by any process of disinfection; and



that the said scale insects with which the trees are infested, if not destroyed, will be introduced into the orange orchards of California, and the orange industry greatly injured, if not totally destroyed. That the said scale insects can not be destroyed without the destruction of said trees; that the defendants are contemplating the removal of said trees into the interior of the State of California, and that the said scale insects would be thereby distributed among other trees and propagated and spread all over the State of California. The complaint prays a judgment of the court that the trees be declared a nuisance and ordered to be destroyed.

Plaintiff relies, for its right to maintain the action, upon the provisions of the act of the legislature, approved March 19, 1891, declaring any orchards, trees, plants, or shrubs infested with insect pests injurious to plants, trees, etc., to be a nuisance, and also upon the theory that the trees in question are, under the general provisions of the Code, a public nuisance, and may be abated by an action brought in this manner.

It therefore becomes necessary for the court to consider the power of the legislature to adopt this statute, and the question whether, in the absence of statutory provisions, the action could be maintained.

My attention has not been directed to any constitutional limitation which affects the right of the legislature to adopt a statute such as the one in question. The statute does not determine that any specific orchard or trees are a nuisance, but leaves it to the courts to determine whether there exists a condition of affairs which will make any particular trees a nuisance, and is, in my opinion, constitutional.

The law of nuisance, under our codes, is practically but a reënactment of the common law; and while this case is peculiar in its character and circumstances (being the first of the kind tried in the State), and in many respects utterly unlike any case to be found in the Reports, yet the duty to be performed by the court is the application of decisions disposing of cases widely differing from this as to the facts, but laying down principles which, by analogy, can be applied to the facts of this case.

It is peculiarly the characteristic of cases, under the law of nuisance, that they are largely dependent upon surroundings. The common law is not an iron-cast system, to which every case must be fitted without regard to its particular circumstances, but is a system which derives its beauty and utility from the fact that it is the condensation of the wisdom and learning of centuries, modified from time to time by the circumstances of period and place. In the consideration of any case which is dependent, to a greater or less degree, upon the circumstances and surroundings of the community and State, it is the duty of the court to take into consideration the condition and development of the industries which may be affected by its judgment, for the purpose of properly applying the rules of law to the circumstances of the case. The court, therefore, in applying the principles of the common law and the decisions thereunder, takes into consideration all the facts to which those decisions and principles are to be applied.

“That new conditions and new facts may produce the novel application of a rule which has not been before applied in like manner, does not make it any less the common law; for the latter is a system of grand principles, founded upon the mature and perfected reason of centuries. It would have but little claim to the admiration to which it is entitled if it failed to adapt itself to any condition, however new, which may arise; and it would be singularly lame if it is impotent to determine the right of any dispute whatever. Having, as far as we have gone, met all difficulties by adhering to its doctrines, we have no ground to presume that we will have to go beyond its precincts for a solution of any which may arise. Every judge is bound to know the history and the leading traits which enter into the history of the country where he presides. This we have held before, and it is also an admitted doctrine of the common law.” (*Conger vs. Weaver*, 6 Cal. 548.)

The court, therefore, takes judicial notice of the history, development, and character of the industries of California; of the fact that the production of fruits is one of the leading occupations in this state, and that a large portion of the people are dependent upon it. It takes judicial notice of the fact that a large portion of the land in this and adjoining counties is devoted to the cultivation of citrus fruits, and that the annual production and shipment of oranges is very great, and that the spread of any insect pest injurious to citrus trees must necessarily result in serious injury to that business and in great loss and destruction of property.

That orchards and trees infested by scale or insect pests injurious to vegetation and which will easily spread to other places, must be a nuisance, *prima facie*, seems too clear to require discussion, and would not receive it at the hands of this court but for the fact that this is the first case of this kind.

“A nuisance is anything that worketh hurt, inconvenience, or damage.” (Black, vol. 3, p. 213.)

“Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.” (Sec. 3479, C. C.)

“A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.” (Sec. 3840, C. C.)

The kinds of nuisances which have been abated are almost innumerable in variety, each dependent upon the particular character and circumstances under which it exists.

In the case of *Campbell vs. Seaman*, 63 N. Y. 568, the use of bituminous coal, which produced vapors injurious to vegetation, was held to be a nuisance. Again, a house in so ruinous a condition as to be likely to fall upon the house of another is a nuisance. (*Tenant vs. Goldwin*, 2 Ld. Raymond, 1893.) Buildings in an unsafe condition in a public street are common nuisances. (Wood's Law of Nuisances, p. 8.) Production of vapors injurious to vegetation is a nuisance. (Wood's Law of Nuisances, Sec. 536, *et seq.*)

It has been argued by defendant's counsel that a prospective nuisance will not be abated, and the authorities cited by them would be conclusive in this case if applicable to its facts. But the fallacy of their argument is that in the cases cited by them no considerable injury could be done until the actual existence of a nuisance could be shown. In the case at bar, before damage could be actually shown, it would be necessary for the scale insects in question to be disseminated through a considerable portion of the orchards of the state and their propagation have reached a stage at which it would be extremely difficult, if not impossible, to check and eradicate them.

It appears to me that this case belongs to that class in which, if the allegations of the complaint are true, a damage will be inferred, and it is not necessary to wait until it is actually done. It is similar in that respect to the cases in which diseased animals are taken to public places when there is danger of infection, to the cases of the storing of explosives, and to the cases of condemnation of dangerous buildings and places likely to be injurious to the health of the community—in all of which the abatement of the nuisance rests merely upon the reasonable apprehension of danger. The fact that the trees are at San Pedro does not prevent their being considered an existing nuisance, as the evidence shows that the larvæ of the scale may be carried by birds, insects, and the winds to distant portions of the county and state.

The evidence in the case shows that at the time of the arrival of the trees at San Pedro they were infested with eight different varieties of pests, and that subsequently they were treated six times with different processes for the destruction of the scale; that the treatment was successful as to all kinds except a species of scale hitherto unknown in California, called the mining scale or *Chionaspis biclavis*, and that all efforts to eradicate this scale have been unsuccessful, and seem to have been abandoned by defendants.

The evidence with regard to this scale is entirely that of expert witnesses, who, never having seen it before, are unable to testify positively as to its effects, other than from their opinion derived from familiarity with the cultivation of the orange, from experience with the other scale insects similar in character with which orange trees are infested, and from their observation of this insect found upon the trees in question. The evidence and the inspection of the court, however, show positively that the mining scale derives its nutrition and support entirely from the tree, and consequently must be injurious in a greater or less degree.



The expert witnesses all agree in the opinion that it is injurious to the health of the tree, and that if introduced into the state it would occasion great injury to the orange orchards.

An entomologist and agent of the Department of Agriculture testified that he had made an examination of the trees at San Pedro, and found the mining scale upon them in a healthy condition on the day before the trial of the cause; that he did not know of its existence elsewhere in the state, and that there could be no doubt about its being detrimental, living at the expense of the tree. He was of the opinion that by some process the scale might be destroyed without the destruction of the trees, but was unable to give any method by which it could be done.

Alexander Craw, quarantine officer of the state board of horticulture, testified that he had inspected the trees eight or ten times, examined the scale in question, and found the live scale and larvæ. In his opinion the mining scale could not be destroyed without destroying the trees. He considered it a very destructive scale, and knew of no way by which it could be eradicated except by destroying the trees. It was, in his opinion, a more dangerous insect than the cottony-cushion scale, and would be very injurious to the orange industry.

The other witnesses testified substantially to the same opinions as those given by Mr. Craw.

The trees in question, now reduced in number to about 60,000, are contained in crates at San Pedro; and the evidence shows that, in an examination of the trees at this time, live scale is found on only a portion of the trees, but that a thorough examination would require five or ten minutes for each tree.

The evidence establishes all the allegations of the complaint, being open only to the objection that it is to a great extent merely expert opinion. But, under the circumstances, that is the best evidence of which the case is susceptible.

This evidence is practically uncontradicted by the defense, as no witness has been produced who claims to know any process by which this scale can be destroyed, or that it is not injurious.

The defense claims that the trees should be separated, and only those upon which the scale are found be destroyed. There is no doubt that the position of the defendants is correct, that in abating a nuisance no more property should be destroyed than is absolutely necessary for that purpose. But in this case the situation of these trees is such that there is no certainty that all are not infested, and if such separation can be made it should be done by defendants.

The period during which the case has been pending was sufficient to give the defense every opportunity to disinfect these trees.

From the evidence of the experts, and in the absence of any suggestion of a method by which the trees can be disinfected, the court must conclude that it can not be done without the destruction of the trees.

It therefore follows that the allegations of the complaint are sustained by the evidence. The court is of the opinion that the statute of March

19, 1891, is constitutional, and that even in the absence of such a statute the trees in question are a nuisance under the code, and that plaintiff is entitled to the relief demanded in the complaint.

Let findings and judgment be submitted in accordance with this opinion.

J. W. McKINLEY, Judge.

### CONSTITUTIONALITY OF HORTICULTURAL LIENS.

L. A. No. 486. Department Two. November 11, 1899.

COUNTY OF LOS ANGELES, *Appellant*,

vs.

W. D. SPENCER ET AL., *Respondents*.

ACT TO PROTECT HORTICULTURE.—TITLE.—Every provision of the act of 1881, page 88, entitled "An act to protect and promote the horticultural interests of the State," and of the acts amendatory thereof, is germane to the subject-matter expressed in its title, and is properly embraced therein.

ID.—HORTICULTURAL COMMISSIONERS.—POWER TO DETERMINE NUISANCE.—JUDICIAL POWER.—POLICE POWER.—The power given by such act to the horticultural commissioners to determine whether any particular place is a nuisance and to abate the same is not a judicial power, within the meaning of the inhibition of article III of the Constitution; and the act is a proper exercise of the police power within the meaning of section 1 of article XIX of the Constitution.

ID.—PUBLIC NUISANCES.—INFECTED PLACES.—INSECT PESTS.—The legislature has the power to declare that to be a nuisance which is such in fact, and the places declared by such act to be public nuisances, to wit: "All places, orchards, nurseries," et cetera, infected with "scale insects or codling moth, or other pests injurious to fruit, plants," et cetera, are clearly such within the definition of that term as used in sections 3479 and 3480 of the Civil Code.

ID.—LIEN FOR ABATING NUISANCE.—The lien given by the statute upon the premises from which such nuisance has been abated, for the expenses of abating it, is not for a delinquent tax, but for an indebtedness due the county, and its enforcement in the way prescribed by the statute is not unconstitutional.

Appeal from a judgment of the superior court of Los Angeles County.  
Walter Van Dyke, Judge.

The facts are stated in the opinion.

J. A. Donnell and William P. James, for Appellant.

Tanner & Taft, and Gardiner, Harris & Rodman, for Respondents.

GRAY, C. The plaintiff appeals from a judgment following an order sustaining a demurrer to an amended complaint without leave to further amend.

The amended complaint purports to set out a cause of action to foreclose a lien for the expense of abating an insect pest nuisance in defendant's orchard. This lien is claimed to exist by virtue of an act entitled "An act to protect and promote the horticultural interest of the State," and acts amendatory thereof and additional thereto. The act in question may be found in the Statutes of 1881, page 88, and the amendments and additions thereto in the Statutes of 1889, page 413, and the Statutes of 1891, pages 260 and 268. In sustaining the demurrer without leave to amend, the learned judge of the court below filed an opinion, in which the principal reason assigned for the action of the court is that the act in question is unconstitutional, and this, also, is the main reason urged on this appeal in support of the judgment. It is said, first, that the act embraces more than one subject grouped under one title. The

act as amended provides for the appointment, by the board of supervisors of any county in the state to whom the required petition is presented, of a horticultural commission of not exceeding three members. It also prescribes the length of the terms of office of said commissioners and the manner of filling vacancies therein. It then defines the duties and powers of the board of horticultural commissioners, fixes their compensation, and provides for their removal. It makes the expense of removing or abating an insect pest nuisance from any property infested thereby a lien upon the property or premises from which such nuisance has been abated. All the duties and powers conferred upon said board appertain to the abating of those insect pest nuisances which interfere with the business of horticulture.

From this brief summary it will be readily seen that every provision of the act points directly to the protection and promotion of the horticultural interests of the state, and hence all said provisions relate to but one subject and may be properly grouped in one act under the very appropriate title of "An act to protect and promote the horticultural interests of the State." This view seems to be supported by the following cases therein cited: *Ex parte Liddell*, 93 Cal. 633; *Abcel vs. Clark*, 84 Cal. 226.

It is urged that the act in question is unconstitutional and invalid because it confers judicial powers upon the horticultural commissioners, contrary to article III of the State Constitution; but we do not think that this contention can be maintained. This provision of the Constitution must be understood as construed by judicial decisions, and with reference to the subject of police power. The act itself defines the nuisances to which it relates and declares that "all places, orchards, nurseries," et cetera, infected with "scale insects, or codling moth, or other pests, injurious to fruit, plants," et cetera, are public nuisances. In determining whether any particular place is a nuisance, the commissioner, no doubt, exercises some discretion which, in a strict sense, is in its nature judicial; but the executing of a police regulation quite often calls into action that kind of discretion. And yet the acts of a commissioner involved in this case are no more judicial than the acts of officers under many other laws and ordinances which have been held valid. Ordinances prohibiting the erection of wooden buildings within fire limits except upon the order of fire commissioners; giving viticultural commissioners power to prohibit the importation of diseased vines; prohibiting the carrying on of a public laundry without a certificate of the health officer and of the board of firewardens; prohibiting retail liquor business without permission of the board of police commissioners; giving to the superintendent of public streets the power to determine where, either on a public street or on private premises, any rubbish should be deposited; forbidding orations, harangues, et cetera, in a park without consent of the park commissioners, or upon other grounds except by permission of the city government committee; beating drums, et cetera, without permission of the president of the village; prohibiting manufacturers and others from ringing bells, et cetera, except at such



times as the board of aldermen may designate; authorizing harbor-masters to station vessels and to assign each its place; forbidding the keeping of swine without a permit from the board of health; and giving to boards of health, quarantine officers, and milk inspectors discretion as to the exercise of police powers—all such laws and ordinances have been judicially held to be valid, although they confer the same power upon designated public officers as is given by the act here in question to the commissioners. (*Ex parte Ah Fook*, 49 Cal. 402; *In re Flaherty*, 105 Cal. 558, and cases there cited; *Ex parte Fiske*, 72 Cal. 125; *Bittenhaus vs. Johnston*, 92 Wis. 588; *Train vs. Boston Disinfecting Co.*, 114 Mass. 523, 59 Am. Rep. 113; *Newton vs. Joyce*, 166 Mass. 83.) The efficiency of many police regulations depends upon their prompt and summary execution; and therefore, from necessity, certain discretion must be given to the officers who are to make the regulations effective. In *Ex parte Ah Fook*, *supra*, this court said: "It is obvious that to render effectual an inquiry which has for its purpose the carrying into operation of quarantine or health laws it must be prompt and summary, and we are not aware that any reasonable provisions of the statute clothing such officers or boards with enlarged powers often exercised by them have ever been held unconstitutional." In the case at bar, the acts of the commissioner are not clothed with that sanctity and protection which accompanies the judicial acts of courts and judges, and the commissioner would be liable officially and personally for wrongful acts done under the color of his office. And then, again, the lien in question here could not be enforced until after a judicial investigation and determination by a court.

Beyond any question the legislature has the power to declare that to be a nuisance which is such in fact, and we think it safe to assert that everything declared to be a public nuisance in the act in question comes clearly within the meaning of that term as defined in the Civil Code, sections 3479 and 3480.

It is known that the existence of the fruit industry in the state depends upon the suppression and destruction of the pests mentioned in the statute. The act in question is, therefore, a proper exercise of the police power which the legislature has, under section 1 of article XIX of the Constitution, to subject private property to such reasonable restraints and burdens as will secure and maintain the general welfare and prosperity of the state. (*Abcel vs. Clark*, *supra*; *Train vs. Boston Disinfecting Co.*, *supra*). In this connection, it may be well to observe that the statute does not authorize any injury to or destruction of property, but, on the contrary, its provisions are beneficial to the very property upon which it operates.

The lien given by the statute is not for a delinquent tax, but for an indebtedness due the county, and the enforcement of it in the way prescribed by the statute is not obnoxious to any constitutional inhibition.

The case of *Boorman vs. Santa Barbara*, 65 Cal. 313, and the other California cases cited by respondent to show that private property can not be subject to burdens without due process of law, are sound in

principle, but as to the matter of notice the statute here under consideration is not like any of the statutes in those cases. The subject of those statutes, street improvements, does not naturally call for such prompt and immediate action as might be necessary in the abatement of a contagious nuisance like that treated of in the statute here in question. (*Surocca vs. Geary*, 3 Cal. 69; 58 Am. Dec. 385.)

We discover no conflict with any constitutional provision in the act under consideration as finally amended in 1891.

For the foregoing reasons we advise that the judgment be reversed and the cause remanded.

We concur:

CHIPMAN, C.

HAYNES, C.

For the reasons given in the foregoing opinion the judgment is reversed and the cause remanded.

McFARLAND, J.

TEMPLE, J.

HENSHAW, J.

Hearing in bank denied.

#### THE RIVERSIDE CASE.

Arthur Butcher, of Riverside, the owner of an orange orchard infested with red scale, upon being notified to fumigate the same by the county board of horticultural commissioners, refused to do so. Under the law the board proceeded to fumigate the orchard, and the expense was paid out of the general fund of the county in the sum of \$196.46.

The district attorney at once began suit to declare the sum a lien on the orchard and real estate of Mr. Butcher, and the case was heard before Superior Judge Noyes of Riverside County, in November, 1899, and Judge Noyes followed the opinion of the superior court of Los Angeles county in the Spencer case, which had recently held the law unconstitutional, as too arbitrary in selling real estate for such purposes. The Los Angeles case and also the Riverside case were both appealed to the supreme court, and both have been reversed. The supreme court decided both cases on the theory that as the fruit industry is so important, and the destructiveness of scale so deadly, no citizen should be allowed to permit the growth and spread of the pests; and while the penalty of loss of land is severe, it is just.

*In the Superior Court of the County of Riverside, State of California.*

THE COUNTY OF RIVERSIDE, Plaintiff,	}	COMPLAINT.
vs.		
ARTHUR BUTCHER, Defendant.		

Plaintiff complains and alleges:

I. That at all times hereinafter mentioned plaintiff was and now is a duly organized county of the State of California.

II. That at all times hereinafter mentioned there was and still is a duly appointed, qualified, and acting board of horticultural commis-

sioners for said county, consisting of three members. That a petition was presented to the board of supervisors of Riverside county, signed by more than twenty-five persons, each of whom was a resident freeholder of said county and possessor of an orchard, stating that certain orchards of said county were infested with scale insects destructive to fruit trees, and praying that a commission be appointed by said supervisors to supervise the destruction of said scale insects; and within twenty days after said petition was presented said board of supervisors appointed three persons qualified to perform the duties of horticultural commissioners.

III. That the defendant herein, Arthur Butcher, at all times herein-after mentioned was and still is the owner in fee of the following described real estate, situated in the county of Riverside, State of California, to wit: All of lot 233 and fractional lot 236 as the said lots are delineated on the map of the lands of the Southern California Colony Association on file in the office of the county recorder of San Bernardino county, California.

IV. That at all times herein mentioned there was and is standing and growing on said land a fruit-bearing orchard consisting of orange trees, the property of said defendant.

V. That on the 22d and 23d days of August, 1898, the said board of horticultural commissioners, pursuant to the statute in such cases made and provided, caused an inspection of said orchard to be made, and found the same to be infested with red scale insects that are destructive to trees, and by law declared to be a public nuisance; that thereafter, to wit, on the 24th day of August, 1898, the said fruit trees being still infested with said scale as aforesaid, the said board of horticultural commissioners caused a notice to be served upon W. Miller, the person in charge of and in possession of said premises and orchard for the defendant as his agent, requiring said defendant and agent to eradicate or destroy the said scale and insects so found upon said trees within ten days after the service of said notice. A copy of said notice is hereto attached and made a part of this complaint as "Exhibit B."

VI. That notwithstanding said requirement was made by the said board of horticultural commissioners upon the said defendant to eradicate or destroy said scale as aforesaid within ten days after the service of said notice, the said defendant wholly neglected and refused to eradicate or destroy said scale within ten days after the service of said notice, or at any other time or at all.

VII. That thereafter, to wit, on the 20th and 25th days of September, 1898, the said board of horticultural commissioners entered upon said premises and destroyed and eradicated the said scale so found upon said trees; that the expense incurred in eradicating and destroying said scale amounted to and was the sum of \$196.46, which said sum the board of supervisors of the said plaintiff allowed and paid out of the general fund of the county on the 9th day of December, 1898.

VIII. That the said amount so paid by the said board of supervisors



has never been repaid to the county by the defendant, or any other person, and is now due and wholly unpaid.

IX. That thereafter and within thirty days after the right of said lien had accrued, to wit, on January 7, 1899, the board of horticultural commissioners caused a notice of a lien upon the above described real estate, as provided by law, to be filed and recorded in the office of the recorder of said Riverside County, being the county in which said property and premises are situated, a copy of which notice of lien is hereto attached and made a part of this complaint as "Exhibit A."

Wherefore, plaintiff demands foreclosure of said lien, and that by judgment and order of this court the said money so expended as aforesaid to eradicate said scale be declared to be a lien on said land, and that judgment may be entered against said land and defendant for said sum with costs, and that by said judgment it may be decreed that the said land shall be sold and that enough of the proceeds shall be paid into the county treasury of the plaintiff to satisfy the aforesaid lien and costs, and that the surplus, if any, be paid to the owner of the property if he be known, and if not, into the court for his use when ascertained.

LYMAN EVANS,

District Attorney, and Attorney for Plaintiff.

"EXHIBIT A."

Notice is hereby given that pursuant to the statutes in such cases made and provided, the Board of Horticultural Commissioners of the county of Riverside, State of California, between the — day of —, 189—, and the — day of —, 189—, caused to be destroyed and eradicated certain insects and other pests injurious to fruit, plants, vegetables, trees, and vines, together with their eggs and larvæ, upon that certain orchard belonging to Arthur Butcher, and particularly described as being in the said county of Riverside, State of California, and known and described as all of lot 233 and fractional lot 236, as the said lots are situated on the map of the lands of the Southern California Colony Association, said map on file in the office of the County Recorder of the county of San Bernardino, State of California.

That the amount of labor bestowed and materials furnished for the purpose of eradicating said pests, as aforesaid, was of the amount of one hundred ninety-six and forty-six one-hundredths dollars.

That said owner has wholly failed to pay any part of said sum for the eradication of said insects.

That thereafter and, to wit, on the 9th day of December, 1898, the said county of Riverside paid said sum of money for the eradication of said insects, pursuant to the provision of the statutes in such cases made and provided.

Wherefore, the county of Riverside claims the benefit of the law relative to liens of mechanics and others upon real property, to wit, chapter 2, title 4, part 3, of the Code of Civil Procedure.

R. P. CUNDIFF,

W. F. BUDLONG,

Horticultural Commissioners.

STATE OF CALIFORNIA, }  
County of Riverside. } ss.

W. F. Budlong, being duly sworn, deposes and says, that he is a Horticultural Commissioner in and for the county of Riverside; that he has read the foregoing notice and knows the contents thereof, and that the same is true; and that it contains (among other things) a correct statement of the demands in favor of the county of Riverside after deducting all just credits and offsets.

W. F. BUDLONG.

Subscribed and sworn to before me, this 7th day of January, 1899.

[SEAL]

LYMAN EVANS,

Notary Public in and for the County of  
Riverside, State of California.

OFFICE OF THE  
COUNTY BOARD OF HORTICULTURAL COMMISSIONERS,  
RIVERSIDE COUNTY, CALIFORNIA.

In accordance with the law, the undersigned Horticultural Commissioners of the county of Riverside, State of California, have caused an inspection to be made of your orchard and the trees thereon, located lots 233 and 236, lands of the Southern California Colony Association, in the city and county of Riverside and State of California, in said county.

Therefore, in accordance with section 2 of an act to promote the horticultural interests of the State, by providing county boards of horticulture, approved March 21, 1897, you are hereby notified that your orchard and trees, described above, are infested with red scale injurious to fruit and fruit trees, and that said red scale is a public nuisance, and you are hereby required to eradicate or destroy the said red scales or other pests, and their eggs and larvæ, within ten days of the time of the service on you of this notice.

Dated this 24th day of August, 1898.

(Signed :) GEORGE VANKIRK,  
W. B. HUNTER,  
W. F. BUDLONG,  
Horticultural Commissioners.

THE COUNTY OF RIVERSIDE, *Plaintiff*,  
 vs.  
 A. BUTCHER, *Defendant*. } DEMURRER.

Now comes the defendant, A. Butcher, and demurs to the plaintiff's complaint herein on the following grounds:

I. That said complaint does not state facts sufficient to constitute a cause of action.

II. That said complaint does not, nor does any so-called cause of action, paragraph or phrase therein contained, separately or collectively taken together, state facts sufficient to constitute a cause of action.

III. That said complaint is uncertain in this, that it can not be told therefrom on what part of the premises described in said complaint the trees or orchard were situated, or whether said orchard covered the whole of said premises or only a part, and if a part only, what part.

IV. That said complaint is unintelligible for the same reason.

V. That said complaint is ambiguous for the same reason.

VI. That said complaint is uncertain in this, that it can not be told therefrom in what manner or to what extent said red seal was eradicated, or that it was eradicated at all.

VII. That said complaint is unintelligible for the same reason.

VIII. That said complaint is ambiguous for the same reason.

IX. That said complaint is uncertain in this, that it can not be told therefrom that the notice mentioned in paragraph six of said complaint

was ever served on defendant, or how or by whom said notice was served.

X. That said complaint is unintelligible for the same reason.

XI. That said complaint is ambiguous for the same reason.

XII. That plaintiff has no capacity to sue or maintain this action.

XIII. That this court has no jurisdiction of the subject of this action.

Wherefore, defendant prays that he go hence with his costs.

P. FERGUSON,  
Defendant's Attorney.

*In the Superior Court of the County of Riverside, State of California.*

THE COUNTY OF RIVERSIDE, Plaintiff, )	JUDGMENT ON DEMURRER.
vs.	
A BUTCHER, Defendant. )	

This cause coming on regularly to be heard before the court on the nineteenth day of June, 1899, on the demurrer and complaint, and cause submitted to the Court for decision.

Whereupon the Court, after due deliberation, sustained said demurrer without leave to amend.

Wherefore, by reason of the law and the foregoing, it is ordered, adjudged, and decreed that plaintiff take nothing by said action, that the said action be herein dismissed.

It is therefore ordered, adjudged, and decreed that the defendant, Arthur Butcher, do have and recover from the plaintiff, the county of Riverside, his costs and disbursements herein, amounting to the sum of three and fifty one-hundredths dollars.

Done in open court, this fourth day of November, eighteen hundred and ninety-nine.

J. S. NOYES, Judge.

L. A. No. 880. Department Two. July 5, 1901.

THE COUNTY OF RIVERSIDE,	} DECISION OF THE SUPREME COURT.
Plaintiff and Appellant,	
vs.	
ARTHUR BUTCHER,	
Defendant and Respondent. )	

HORTICULTURAL ACT—DESTRUCTION OF SCALE AND INSECTS—CONSTITUTIONALITY OF ACT—The act of legislature of March 3, 1897, entitled "An act to promote the horticultural interests of the State," etc., (Stats. 1897, p. 244), was held to be constitutional in the case of *Los Angeles vs. Spencer*, 126 Cal. 670.

FORECLOSURE OF LIEN—HORTICULTURAL ACT—NOTICE TO REMOVE SCALES—SERVICE.—In an action by a county under the act of March 3, 1897, to foreclose a lien for money paid out by plaintiff for destroying certain scale and insects found upon the trees in defendant's orchard, the notice required to be given by the statute is sufficient where it contains a description of the premises, the name of the owner, the amount claimed, that it is for labor bestowed and materials in eradicating the insects upon the orchard of the defendant; and an allegation in the complaint that the notice was served on the person in charge of and in possession of the premises is sufficient. A statement in the notice that plaintiff claimed the benefit of the law relative to liens of mechanics and others on real property does not violate it; this may be treated as surplusage, and the same may be said of a prayer for a personal judgment.

HORTICULTURAL ACT—WHEN LIEN ACCRUES—TIME FOR FILING NOTICE.—The right of a county to a lien for money paid for the destruction of scales and insects in an orchard, under the act of March 3, 1897, accrues at the time the money is paid, and the notice of lien may be filed within thirty days from that time.



Appeal from the Superior Court of Riverside County. J. S. Noyes, Judge.

For Appellant, Lyman Evans.

For Respondent, P. Ferguson.

The court below sustained a demurrer to plaintiff's complaint, without leave to amend, and this appeal is from the judgment for the purpose of reviewing the order sustaining the demurrer.

The action was brought to foreclose a lien for money paid out by plaintiff for destroying certain scale and other insects found upon the trees in defendant's orchard, the lien being claimed under the provisions of the act of March 3, 1897, entitled "An act to promote the horticultural interests of the State by providing county boards of horticulture," etc. (Stats. 1897, p. 244).

It is said by appellant that the court below sustained the demurrer upon the ground that the act was unconstitutional, and as the court denied the plaintiff leave to amend, it would seem that the contention is correct. The point may be regarded as settled by this court in *County of Los Angeles vs. Spencer*, 126 Cal. 670, which case was decided a few days after the court made the order sustaining the demurrer in this case. We regard the reasoning of the court in that case as correct, and it is not necessary to further discuss the question. Other objections, however, are made to the complaint, which we will notice in the order presented. It is claimed that the complaint fails to show that proper notice was served upon defendant requiring him to eradicate and destroy the scale prior to the expense incurred by plaintiff. The act provides, in speaking of the duties of the county board of horticultural commissioners: "They shall notify the owner or owners, or person or persons in charge or in possession of the said places or orchards, \* \* \* that the same are infested with said insects, or other pests, \* \* \* and they shall require such person or persons to eradicate or destroy the said insects \* \* \* within a certain time to be specified. Said notice may be served upon the person or persons, or either of them, owing, or having charge, or having possession of such infested place \* \* \* by any commissioner, or by any person deputed by the said commissioners for that purpose, or they may be served in the same manner as a summons in a civil action."

The complaint alleges that the board "caused a notice to be served upon W. Miller, in charge of, and in possession of, said premises and orchard for the defendant, as his agent, requiring said defendant and agent to eradicate or destroy the said scale and insects so found upon said trees within ten days after the service of said notice."

A copy of the notice is attached to the complaint as an exhibit, and the copy shows that the notice contained fully all matters required by the statute.

We think the allegation as to service of notice sufficient. It shows that the person served was the person in charge of and in possession of the premises. This is all that the statute requires. The allegation shows that the notice was served substantially as required by the statute.

It is further contended that the complaint fails to show that the notice of lien was filed within thirty days after the right of lien accrued. This contention is based upon the fact that the complaint shows that the labor of destroying the scale was done in the latter part of September, 1898, and that the notice of lien was not filed until January, 1899. The statute provides that the expense shall be a county charge and the board of supervisors shall allow and pay the same out of the general fund of the county. "Any and all sums so paid shall be and become a lien on the property. \* \* \* A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated within thirty days after the right to the lien has accrued."

The right to the lien accrued to the county at the time it paid the amount. It then became a lien upon the property, and not till then. After the lien so accrued the county had thirty days in which to file its notice. It is alleged that the county paid the amount December 9, 1898, and that it filed the lien January 7, 1899. This was within thirty days after the right to the lien accrued.

The notice of lien was sufficient when signed and verified by the members of the board of commissioners stating that the county claimed a lien for the amount of expense. It contains a description of the premises, the name of the owner, the amount claimed, that it is for labor bestowed and materials furnished in eradicating the insects upon the orchard of defendant. This was all that was required by the statute. In fact, the statute is entirely silent as to the form, contents, or requisites of the notice. It simply says a "notice of such lien shall be filed and recorded." The complaint shows that the notice was filed and recorded. The fact that the notice stated that the plaintiff claimed the benefit of the law relative to liens of mechanics and others upon the real property did not vitiate it. This part of the notice may be regarded as surplusage. The same may be said of the prayer for a personal judgment. The prayer is no part of the complaint, and, in addition to the prayer for personal judgment, it asks that the amount may be declared a lien, and that the premises be sold to satisfy such lien.

We recommend that the judgment be reversed, and the cause remanded with directions to the lower court to overrule the demurrer and allow defendant a reasonable time to answer.

COOPER, C.

We concur:

CHIPMAN, C.

HAYNES, C.

For the reasons given in the foregoing opinion the judgment is reversed, and the cause remanded with directions to the lower court to overrule the demurrer and allow defendant a reasonable time to answer.

HENSHAW, J.

McFARLAND, J.

TEMPLE, J.

## POWERS OF HORTICULTURAL COMMISSIONERS DEFINED.

*In the Superior Court of the County of Tehama, State of California.*

OREGON NURSERY CO., LIMITED (A CORPORATION), Plaintiff,	} OPINION.
vs.	
R. W. COATS AND A. W. SAMSON, Defendants.	

The plaintiff, in January of this year, shipped from the State of Oregon into this county a large number of fruit trees—nursery stock.

Believing the defendants were the proper persons to inspect said trees, the agent of the plaintiff notified the defendants of their arrival.

The defendants examined said trees and found some of them infested with peach-root borers, some with sour sap, some whose roots had been frozen, and some with root knot.

That the trees were so infested and diseased I think is shown by a preponderance of evidence.

Of the total number of trees shipped only a small percentage were condemned by defendants, and of those condemned only a part were destroyed.

It may be that in inspecting so large a number of trees, the defendants occasionally made a mistake, and condemned a tree that should have been passed. It would be strange if they did not, but the evidence satisfies me that in the main all the trees condemned, and particularly all the trees destroyed, were, by reason of borers or disease, unfit to sell or plant and had no market value.

Entertaining these views I should, without further discussion, order judgment for defendant, were it not that a vital question still remains to be solved, viz: Were the defendants authorized by law to inspect the trees at all, and if so, were they authorized to destroy any or all of those condemned?

Upon this branch of the case I shall express my views somewhat at length, both because a correct decision of this case justifies it and because such discussion may assist the board of supervisors and county horticultural commission in the discharge of their duty, with reference to other cases that may arise.

When a board of supervisors or any other local board attempts to do any act with reference to the property of an individual it must be able to show its authority to do so, by some law clearly conferring such power.

The defendants claimed the right to inspect, condemn and destroy the trees by virtue of holding the official position of horticultural inspectors for Tehama County. It is true one of the defendants claimed to hold the position of quarantine guardian, but as he testified positively that in what he did concerning these trees he did not act as quarantine guardian, but that in all he did he was acting as inspector, the validity of his appointment as such guardian and his powers and duties as such need not be considered.

So far as I am advised there are now in force three acts of the legislature relating to the protection of the fruit interests of the state.



The first I shall notice is an act passed in 1883 (Statutes of 1883, p. 289). This act provides for a State Board of Horticultural Commissioners, consisting of nine members, to be appointed by the Governor, two from the state at large and one from each of seven districts. The provisions of this act, so far as necessary to be noticed at this time, are found in sections 5 and 7.

Section 5 provides that that state board, for the purpose of preventing the spread of contagious diseases among fruit trees and fruit, and for the prevention, treatment, cure, extirpation of fruit pests and the diseases of fruit and fruit trees, and for the disinfection of grafts, scions, orchards, debris, etc., dangerous to orchards, fruit, and fruit trees, shall make regulations for the inspection and disinfection thereof, which regulations shall be circulated in printed form among the fruit growers of the state, and shall be published and posted, etc. Said regulations, when posted in three public places of the county, shall be binding on all.

Section 7 provides that the state board may appoint as many quarantine officers as may be needed to carry out the provisions of this act, whose duty it shall be to see that the regulations of the board are enforced and carried out.

Whether, acting under this statute, the state board has ever adopted any regulations, or printed or posted them, if adopted, I am not informed. The court can not take judicial notice, without proof, of its proceedings.

The next act to which attention is called is the act of 1897 (Statutes of 1897, Chapter 183).

The first section of this act provides where and under what conditions the board of supervisors of a county may appoint a county board of horticultural commissioners. It may make such appointment "when-ever a petition is presented signed by twenty-five or more persons, each of whom is a resident freeholder and possessor of an orchard, stating that certain or all orchards or nurseries or trees of any variety are infested with scale insects of any kind injurious to fruit trees and vines, codling moth, or other insects that are destructive to trees."

It is the law of this state that whenever the legislature confers power upon a board of supervisors or other board, and prescribes the circumstances under which or the manner in which such power is to be exercised, the circumstances must exist before the board can act at all, and if it act it must do so in the manner pointed out by the statute.

As was said by the supreme court of this state. *In re Grovestreet*, 61 Cal. 449: "It was for the legislature to prescribe, and the legislature has prescribed, what the petition shall contain—until a petition is presented containing substantially all that the law declares shall be inserted in a petition to initiate the proceedings, the counsel has no power or jurisdiction to act."

The statute says the board of supervisors may appoint a county board of horticulture, first, when a petition is presented signed by twenty-five resident freeholders and possessors of orchards; and, second, when such

petition states that certain or all orchards or nurseries or trees are infested with scale insects of any kind injurious to fruit trees and vines, codling moth or other insects that are destructive of trees.

The petition presented to the board asking for the appointment of a county board of horticulture complied with the first of the above conditions. It was signed by twenty-five persons having the qualifications prescribed by the statute; but it did not, even in substance, comply with the second condition. It did not state that any orchard or trees in Tehama County were infested with scale insects injurious to trees, codling moth or any insect destructive of fruit trees.

All the petition stated upon this vital point was the following: "We are credibly informed and wholly aware that there exist throughout this county a great many insects and pests of various kinds, and that they are multiplying at an alarming rate."

This is not a statement that any orchard or all orchards or trees are infested with codling moth, scale insects, or any insects destructive of fruit trees.

Of course there are insects and pests in Tehama County, but the statute said the petition must state that there are insects or pests here *injurious to fruit trees*.

It will be admitted, I presume, that not all insects and pests are injurious to fruit trees.

As the presentation of a petition containing the matters the statute requires was the thing necessary to give the board jurisdiction to make any appointment, it follows that the order of the board, based upon the above petition, appointing a county board of horticulture, was void, and from a legal standpoint no board was appointed.

As the board of supervisors may hereafter conclude, upon a proper petition presented, to appoint a board of horticulture, I deem it not improper to offer some suggestions as to what the scope of the authority of such board of horticulture will be when legally appointed.

The second section of the act of 1897 states some of the duties of such board.

When it deems it necessary it shall cause an inspection to be made of any orchard or nursery, or trees, plants, etc., and if found infested with scale insects or codling moth or other pests injurious to fruit, plant or vegetable life, or with their eggs or larvæ, they shall notify the owner or person in possession thereof that they are infested with such pests, insects, etc., and shall require such person to eradicate or destroy said insects or other pests, their eggs or larvæ, within a certain time to be specified.

It then provides that if the owner or person in possession of said orchard or trees shall refuse or neglect to abate the pests, insects, etc., within the time specified, then it shall be the duty of the county board of horticulture to cause said nuisance to be at once abated, by eradicating or destroying said insects or other pests, or their eggs or larvæ.

“The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county; and any or all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated in pursuance of this act, and may be recovered in an action against such property and premises.”

The above seems to be the full measure of power of the county board of horticulture in the matter of dealing with the trees or orchards of other persons.

When we analyze this section we reach the following results: The county board of horticulture has power to inspect any and all orchards and trees in the county, and if it finds them infested with scale insects or codling moth or other pests injurious to fruit, plants, vegetables, trees, or vines, or with their eggs or larvæ, it shall notify the owner or person in possession and require him to eradicate or destroy said insects or other pests, or their eggs or larvæ, within a certain time to be specified.

If the owner or person in possession of the trees or orchard neglects or refuses to abate the same within the time specified, the commissioners shall cause said nuisance to be at once abated by destroying or eradicating said insects or other pests, or their eggs or larvæ.

It will be noticed that no authority is anywhere in the statute given to destroy trees or orchards. The only authority given to destroy is to destroy the pests or insects. Nothing is said about destroying trees. The language is: “It shall be the duty of said commissioners to cause said nuisance to be at once abated by *eradicating or destroying* said *insects or other pests*, their *eggs or larvæ*.”

Whether they would be authorized in any case to destroy trees would probably depend upon circumstances. It is their duty to eradicate or destroy the insects and pests. If a tree or trees were so infested with insects or pests, their eggs or larvæ, as to render it impracticable to eradicate or destroy said insects or pests without destroying the trees, in such case I think the board would be justified in destroying the trees.

But it is clear that the statute in no case confers authority to destroy any trees except such as are infested with insects, borers, or fruit pests. Nor do I know of any good reason why such power should be conferred.

Take the case of trees afflicted with sour sap. All witnesses on both sides testify that it is a disease of the individual tree, produced by local conditions of soil, moisture, or temperature. That it is neither contagious nor infectious. It will not communicate to nor infect other trees in the same orchard or nursery.

This being so, no good reason can be suggested why, if commissioners find a tree or row of trees in my orchard afflicted with sour sap, they should destroy it or them. It will not spread to any more of my trees nor to those of my neighbors, and if I want to take care of and try to grow a sick tree I see no reason why the state should not permit me to do so. Any way, it certainly has not conferred authority upon any one to destroy such a tree without the consent of the owner.



The same rule must apply to nursery stock offered for sale. After the commissioners have inspected it and found trees afflicted with sour sap and informed the intended purchaser, if he is silly enough to plant them he should be permitted to do so.

These remarks do not apply to trees infested with insects and pests injurious to fruit trees. No one should be permitted to buy, sell, plant, grow, or keep in his possession trees infested with insects, pests, etc., that will propagate, spread, grow, and infest and destroy the orchards of other people.

The third section of this act of 1897 gives the county board of horticulture power to divide the county into districts and to appoint a local inspector for each district.

The fourth section makes it the duty of the county board of horticulture to keep a record of its proceedings.

Acting under these two sections, if the board of county commissioners, when appointed, desires to appoint local inspectors, it should meet as a board and divide the county into districts, by section lines or otherwise, fixing the boundaries of each district, and enter it upon the records of its proceedings. If it appoints an inspector for each district, it should do so at a meeting of the board, and enter the names and districts for which appointments are made, upon the minutes of its proceedings required by law to be kept.

Before leaving this statute of 1897 I desire to make some general suggestions concerning it:

It is obvious that it was not passed expressly, if at all, for the purpose of providing for the inspection of nursery trees offered for sale. The legislature had in mind that there might be in a county an orchard infested with insects and pests destructive of fruit trees, which if not eradicated would spread and injure other trees and orchards, and where the owner either neglected or refused to eradicate them, thereby endangering the property of neighbors. It was to force such an owner to eradicate such pests and insects, and if he did not, to give the county commissioners power to do it and make the expense a lien upon his orchard, that the statute was passed.

This is apparent from the first section. To get commissioners appointed a petition must be presented stating that certain or all orchards or nurseries of trees are infested, etc. The board would have no power to appoint, if the petition alleged that all trees and orchards in the county were free of pests and insects, but petitioners believed some one was about to bring infested trees in from another county or state.

That the legislature was legislating for orchards and not for nursery trees out of ground is obvious from section 2, which provides that the county shall have a lien upon the property for the expense of eradicating and destroying insects and pests.

After the county officers had condemned a lot of nursery trees, because infested with root-borers, etc., it would look silly for the county to offer such trees at public auction to pay the expenses of eradicating the pests from them.

But, however all this may be, it is clear that if the act of 1897 did confer power upon county boards of horticulture and local inspectors to inspect and condemn nursery stock shipped in from other states, such authority was taken away by the act of 1899, and *conferred exclusively upon the State Board of Horticulture and the quarantine guardians appointed by it.*

The rule has been announced by our Supreme Court that whenever the legislature purports to pass an act dealing with the whole of a particular subject-matter, such act repeals, by implication, all former acts upon the same subject.

The act of 1899 is directed exclusively to the inspection of nursery stock shipped into this state from places without the state.

The first section provides that any person who shall bring any nursery stock into this State shall notify the state horticultural officer or the quarantine guardian of the district or county of its arrival, and shall hold the same, without unnecessarily moving the same, for the inspection of such state horticultural officer or quarantine guardian. If there is no quarantine guardian or state horticultural officer in the county where such stock is received, it shall be the duty of the person having said stock to notify the state board of horticulture, who shall make immediate arrangement for its inspection.

The third section provides that when any shipment of nursery stock brought into this State is found infested with injurious insects, their eggs, larvæ, or pupæ, or infested with tree, plant, or fruit disease or diseases, the entire shipment shall be disinfected at the expense of the owner. After such disinfection it shall be detained in quarantine the necessary time to determine the result of such disinfection. If the disinfection destroys all insects and their eggs, and eradicates all diseases and prevents contagion, the trees shall then be released from quarantine. (What shall be done with the trees if the disinfection shall not prove a success the statute nowhere states.)

It was clearly the purpose and intent of the legislature in passing this act of 1899, to place the inspection, disinfection, quarantining, etc., of nursery stock shipped into this State in the hands and jurisdiction of a state board of horticulture, to be by it, or by a quarantine guardian appointed by it, inspected, etc., and to take away from the county boards of horticulture and local inspectors all the authority to inspect, condemn, or destroy such imported stock.

The foregoing are all the laws of the State called to my attention or that I have been able to find bearing upon the facts and circumstances developed by the trial of this case. It is a crude and unsatisfactory mass of legislation upon a very important subject. The fruit industry is one of the largest and most important in the State, and it would seem that some plain, simple legislation upon so important a subject could be formulated and passed.

From this review of the law I conclude:

1. That by reason of defective petition the board of supervisors never

acquired jurisdiction to appoint a county board of horticulture, and that its attempt to do so was void.

2. That defendants were not legally appointed local or district inspectors, because there was no horticultural commission to make the appointment, and because if there was such a board it did not attempt to make such appointment at any time when in session as a board, nor did it make any record of such appointment.

3. That county boards of horticulture and inspectors, by reason of the passage of the act of 1899, have no authority or power to inspect, condemn, or destroy a nursery stock shipped into this State from another state; but the duty and power to inspect such a stock is, by the act of 1899, vested exclusively in the state board of horticulture and in the quarantine guardians appointed by it.

4. That any one shipping nursery stock into this county from any place without the State must, before moving it, notify the state quarantine officer of the district of the arrival of the trees; if there is no state quarantine officer for the district he shall notify the State Board of Horticulture, who shall appoint some one to inspect the trees.

5. That no power has been conferred either on county or state board to destroy any trees unless they are infested with fruit insects or pests, or infested with some contagious or infectious disease.

That sour sap in a tree furnishes no justification for the destruction, as it is neither infectious nor contagious.

6. If a county board of horticulture is appointed by the board of supervisors, and the county divided into districts and local inspectors appointed, then the state board can appoint the members of the county board and the local inspectors state quarantine guardians. Then the county board and local inspectors, acting as quarantine guardians, would have authority to inspect the nursery stock shipped into the county from without the State.

7. The evidence shows that the defendants in all their acts concerning plaintiff's trees acted in good faith, believing that they had been legally appointed and that it was their duty to do what they did.

Because the defendants were not legally appointed and were not authorized to destroy the trees I am asked to enter up judgment for the full value of a sound, merchantable stock of trees.

This I must decline to do.

The plaintiff is only entitled to the market value of the trees destroyed. The evidence is to the effect that the trees destroyed, by reason of the presence of peach-root borers, sour sap, frozen roots, root knot, etc., were unfit to plant, were worthless, and had no market value.

The measure of the plaintiff's damage is the value in the market of the trees destroyed, and no more.

Although of no value, as the defendants were not authorized to destroy them, plaintiff is entitled to nominal damages, fixed at one dollar.

A permanent injunction is asked for. I do not think a case is made



out for such an order. It does not appear that plaintiff has any nursery stock in this county at this time, nor that he will have in the future. Should he bring any in, the defendants may then be quarantine guardians and have a right to inspect, and they may not attempt to inspect if not appointed quarantine guardians.

The findings and judgment will be filed in accordance with this opinion.

JOHN F. ELLISON, Judge.

*In the Superior Court of the County of Tehama, State of California.*

OREGON NURSERY CO., LIMITED (a corporation),	} FINDINGS OF FACT AND CONCLUSIONS OF LAW.
Plaintiff,	
vs.	
R. W. COATS AND A. W. SAMSON, Defendants.	

The above entitled action came on regularly for trial on the 18th day of June, 1901, A. M. McCoy and John J. Wells appearing as attorneys for the plaintiff and M. G. Gill and G. H. Chase for the defendants.

Whereupon oral and documentary evidence was introduced, the cause argued by counsel for the respective parties, and submitted to the court for its decision.

From the evidence the court finds the facts as follows, to wit:

I. That at all the times mentioned in the complaint the plaintiff was and now is a corporation organized under the laws of the State of Oregon.

II. That the defendant R. W. Coats claims to be an inspector appointed by the county board of horticultural commissioners of Tehama County, State of California, and the defendant A. W. Samson claims to be such inspector and also claims to be a quarantine guardian appointed by the State Board of Horticulture of the State of California.

III. That on or about the 19th day of January, 1901, the plaintiff brought into the State of California and into Tehama County a shipment of fruit trees of a value exceeding one thousand dollars.

That a portion of said trees were brought to the town of Red Bluff and a portion of said trees were brought to the town of Corning and a portion of said trees were brought to the town of Vina, all within said county of Tehama.

That plaintiff immediately and within twenty-four hours after such arrival notified the defendants and held the said fruit trees without unnecessarily removing the same or placing them where they might be harmful, that they might be immediately inspected by said defendants; that by permission of said defendants a portion of said fruit trees, so brought to the town of Red Bluff, were removed from said town to a place within said county of Tehama, about three miles distant from said town.

IV. That a large number of said trees were infested with injurious insects and their larvæ, and infested with tree diseases.

That none of said trees were infested with any species of injurious insects, their eggs, larvæ, or pupæ, not existing in the orchards, vineyards, gardens, or farms of California.

V. That the said defendants, claiming to be such inspectors as afore-said, did thereafter inspect said trees situate at the several points above mentioned.

That on making said inspection the said defendants found that said trees and many of them were infested with injurious insects, their eggs and larvæ, and infested with tree, plant, and fruit diseases.

They did not find, nor did either of them find, the said trees or any of them infested with any species of injurious insects, or their eggs, larvæ, or pupæ, not existing in the orchards, vineyards, gardens, or farms of California.

That said defendants did notify the agent of plaintiff in charge of said trees that the same were infested with insects and pests injurious to fruit, plants, vegetables, trees, and vines, and with their larvæ, but did not nor did either of them require plaintiff or its agent to eradicate or destroy such insects or other pests, or their eggs or larvæ, within any time specified, or at all.

VI. That said defendants, after making said inspection, did condemn a large number of said trees as being infested, but did not do so without exercising proper discretion and judgment nor without just cause therefor.

That said defendants did not, nor still do not, decline or refuse to say what, if any, injurious insects, or what, if any, eggs, larvæ, or pupæ, were found on said trees.

On January 19, 1901, defendant A. W. Samson gave the certificate set forth in subdivision VI of the amended complaint.

That of the trees so condemned 9 were of the trees inspected at Red Bluff, and 374 were of the trees inspected at the town of Corning, and 159 were of the trees inspected at the town of Vina, 2,318 were of the trees inspected at the point above-named about three miles distant from the town of Red Bluff.

That except as to the 2,318 trees above mentioned, the defendants did not refuse to allow plaintiff to remove the trees so condemned or to allow the plaintiff to use or plant or cause the same to be planted.

Of the trees so condemned and not destroyed (as hereafter found) the defendants neither consented nor refused to allow plaintiff to remove them from the place where condemned, or to use or plant the same.

That the defendants did not disinfect any of the trees so condemned by them.

VII. That at the time of said inspection and at the time said trees were condemned, they were diseased, infested with root-borers, sour sap, and root knot, and unfit to plant, and by reason of their condition had no market value whatever and were not of the value of \$476.03, nor of any value whatever.

VIII. That of the trees so condemned the said defendants did, on or about the 22d day of January, 1901, and without giving plaintiff or its agent the option whether said fruit trees should be removed from the

State or destroyed, destroyed 2,020 in number of said trees by burning them.

That they destroyed them because they were infested with root-borers and sour sap and other diseases of fruit trees, and without other cause therefor.

That defendants did not refuse to allow plaintiff to care for 296, or any number of said trees. That they were exposed to the wind and died.

IX. That the trees so destroyed as set forth in finding VIII by burning and exposure to the wind were not of the value of \$388.14, nor of any value whatever.

X. That said defendants threatened to destroy all of said trees so condemned, but which had not been destroyed when this action was begun; but as all of said trees had either died or been destroyed prior to the trial of this action, the issue of a permanent injunction would be a useless act.

XI. That said defendants were not, nor was either of them, ever appointed inspector by the County Board of Horticultural Commissioners of Tehama County, and they were not, nor was either of them, at any time such inspector, and the defendant Samson was not at any time mentioned herein a quarantine guardian appointed by the horticultural board of the State.

XII. That by reason of the facts above set forth plaintiff has not been damaged in the sum of \$476.03, or in any sum whatever.

XIII. That of the trees burned some were infested with peach-root borers, which is an insect pest injurious to fruit trees and orchards and infectious; but only a small per cent of said trees were thus infested. That the others burned were affected with sour sap, which is a condition or disease of the individual tree, neither infectious nor contagious.

As conclusions of law from the foregoing facts the court finds:

That plaintiff is entitled to nominal damages in the sum of one dollar.

That plaintiff is not entitled to a permanent injunction.

That each side should pay its or their own costs.

Let judgment be entered accordingly.

JOHN F. ELLISON, Judge.

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#### DUTIES AND LIMITATIONS OF HORTICULTURAL COMMISSIONS.

##### Decision on White Fly Injunction at Marysville.

In the effort to eradicate the "White Fly" (*Aleyrodes citri*) in the city of Marysville, an attempt was made by some of the property owners to prevent the horticultural commissioners from entering upon their premises and performing the necessary work. To this end, injunctions were sought restraining them from interfering with the property of the affiants. Suit was then brought to have these injunctions denied, and that of Mrs. Jennie F. Meyers was brought into court and the case heard by Superior Judge Mahon, who, upon presentation of the facts,



refused the injunction, stating, in his opinion, the law in the case, as follows:

"It is the duty of the county horticultural commission to make inspection of all orchards and if, upon inspection, they found that the orchards were infested with the dangerous pest or insect, it becomes the duty of the commission to serve notice on the owner of the orchard to supply such remedies in the eradication of such pest as should be prescribed by the State Horticultural Commissioner.

"That the determination of the fact as to whether the pest or insect is dangerous lies solely with the horticultural commissioners, and the remedy to be applied in its eradication lies solely with the State Horticultural Commissioner, and the courts will not interfere with their determination of these facts. That, in this case, from the affidavits filed in answer to the complaint on application for injunction set forth that the horticultural commissioners of Yuba County have examined and inspected the orchard on the premises of Mrs. Jennie Meyers, the plaintiff, and have found that the said orchard is infested with the 'white fly,' a dangerous insect and pest. That they have served upon her a notice prescribed by the statute to eradicate the pest and insect in the manner prescribed by the State Horticultural Commissioner, to wit, to defoliate the trees.

"Of the facts set forth in the affidavit of the horticultural commission there is no denial, and it appears that the said commission is proceeding regularly in the discharge of their duties as set forth in the statute, and a court of equity will not interfere with them in a matter that the law places solely in their hands to determine. It is the judgment of the court that if upon inspection of an orchard no dangerous insect or pest were found, then the county board of horticultural commissioners would have no right to enter upon the premises or take any steps toward eradicating the pests. If no pest were found upon the particular orchard, then there could be no legitimate excuse to attempt to eradicate it. Only orchards infested can be treated by the commission.

"They have no right under the law to assume that an orchard will become infested. The particular orchard owned by Mrs. Meyers appears, from the undisputed evidence set forth in the affidavit, to be already infested with the white fly, and this commission will not be enjoined from applying the prescribed remedy for the eradication of the said pest. The injunction is therefore denied."

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**POWERS OF COUNTY HORTICULTURAL COMMISSIONERS AND  
STATE QUARANTINE OFFICER.**

**Opinion of Attorney-General Tirey L. Ford.**

SAN FRANCISCO, CAL., September 24, 1901.

MR. ALEXANDER CRAW, *State Board of Horticulture,*

*Clay Street Dock, San Francisco, Cal.*

DEAR SIR: Your favor of July 8, 1901, received, but owing to the press of other official matters which I had in hand at the time of the

receipt of your communication, I have only just been able to give your letter my consideration.

You say: "A serious and contagious disease of olive trees, known as *Bacillus oleæ*, has been found in several counties of this State, introduced several years ago from Europe. There is no known remedy for the disease, and the board desires to know (1) if the county horticultural commissioners have power to order all such diseased trees destroyed, or to destroy them, under the last clause of section 2 of the law of 1897; (2) in counties where no county board of horticulture exists, has the State Board of Horticulture any legal right to cause the condemnation or destruction of such diseased trees through the courts, or otherwise?"

In reply to your first question, permit me to say that the State Board of Horticulture was created by act of March 18, 1883 (Statutes 1883, p. 289). The act was amended in 1889 (Statutes 1889, p. 89). The amended act authorizing the creation of county boards of horticulture is the act of March 31, 1897 (Statutes 1897, p. 244). The act provides for the creation of the county boards of horticultural commissioners. By section 2 of said act it is made the duty of the board to cause an inspection to be made of any orchards or nurseries, or trees, plants, etc., and if found infested with any pest injurious to the fruit, trees, plants, vegetables, etc., or with their eggs or larvæ, they shall notify the owner thereof to destroy the said pests, or their eggs or larvæ.

The act then reads: "Any and all such places, or orchards, or nurseries, or trees, plants, shrubs, vegetables, vines, fruit, or articles thus infested, are hereby adjudged and declared to be a public nuisance.

\* \* \* It shall be the duty of the county board of horticultural commissioners to cause said nuisance to be at once abated by eradicating or destroying said insects or other pests, or their eggs or larvæ."

After providing for the expense entailed in the destruction of the pests, the act declares: "The county board of horticultural commissioners is hereby vested with power to cause any and all such nuisances to be at once abated in a summary manner."

The remedies against a public nuisance are: (1) Indictment or information; (2) A civil action; (3) Abatement. (Civil Code, Sec. 3491.)

A public nuisance may be abated by any public body or officer authorized thereunto by law. (Section 3494, Civil Code.)

Any person may abate a public nuisance which is especially injurious to him, by removing or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace or doing unnecessary injury. (Section 3495, Civil Code.)

There is a diversity of opinion among the text-writers upon the right of a private individual to abate a public nuisance from which he sustains no special injury beyond that common to the public at large.

Some maintain the position that he has such right.

1 Hilliard on Torts, 605;

1 Bishop's Criminal Law, 828.

While others maintain that he has no such right.

Wood on Nuisances, 732 *et seq.*;

Cooley on Torts, Sec. 46.

At common law he could do so.

3 Blackstone's Com., 5.

In California, the case of *Gunter vs. Geary*, 1 Cal. 462, sustains the affirmative of this question, though it does not seem to have been again cited in this State to the point.

However, section 3495 of the Civil Code, *supra*, settles the question, in so far as this State is concerned, against the right of a private person to abate the nuisance summarily, unless he has suffered some personal injury.

Section 3495 of the Civil Code, *supra*, however, gives a public body or officer this right when authorized by law.

The question then resolves itself into the following: Is the county board of horticulture authorized by law, to summarily abate that which the law has declared to be a public nuisance?

As stated, the statute makes the infested trees, etc., a public or common nuisance. This the legislature has the right to do.

*County of Los Angeles vs. Spencer*, 126 Cal. 670;

*Lawton vs. Steele*, 119 N. Y. 226; affirmed 152 U. S. 133.

It has given the county board of horticultural commissioners power to eradicate and destroy the insects, or their eggs or larvæ, and, as stated above, declares "all infested places, orchards, or nurseries, or trees, plants, etc., thus infested \* \* \* to be a public nuisance."

The board is then given power to summarily abate the common or public nuisance.

In the absence of anything further, this would be the authority of law referred to in section 3495, *supra*, of the Civil Code.

In the case of *Lawton vs. Steele*, *supra*, the court, in speaking of the remedies for the abatement of nuisances, says at page 237: "The public remedy is ordinarily by indictment for the punishment of the offender, wherein on judgment of conviction the removal or destruction of the thing constituting the nuisance, if physical and tangible, may be adjudged, or by bill in equity filed in behalf of the people. But the remedy by judicial prosecution, *in rem* or *in personam*, is not, we conceive, exclusive, where the statute in a particular case gives a remedy by summary abatement, and the remedy is appropriate to the object to be accomplished."

In the case of *County of Los Angeles vs. Spencer*, *supra*, the Supreme Court was considering the constitutionality of the acts here under discussion, and sustained them. After holding that the acts in question were a proper exercise of the police power, the commissioner, at page 674, says: "In this connection it may be well to observe that the statute does not authorize any injury to, or destruction of property, but on the contrary its provisions are beneficial to the very property upon which it operates."



This expression of opinion is mere dictum and unnecessary to the decision. The point involved was neither argued nor referred to in the briefs in the case. It is true that the scope of the act is "to promote and protect the horticultural interests of the State," and in certain portions of the act it is said that the commissioners shall abate the nuisance by "eradicating or destroying said insects or other pests, or their eggs or larvæ." But, as said in the case under consideration, on page 673: "It is known that the existence of the fruit industry in the State depends upon the suppression and destruction of the pests mentioned in the statute."

In *Lawton vs. Steele*, *supra*, at page 238, it is said, in speaking of the power of summary abatement: "But the remedy of summary abatement can not be extended beyond the purpose implied in the words, and must be confined to doing what is necessary to accomplish it, and here lies, we think, the stress of the question now presented. It can not be denied that in many cases a nuisance can only be abated by the destruction of the property in which it exists. The cases of infected cargo or clothing and of impure and unwholesome food are plainly of this description."

Again, at page 239: "But where a public nuisance consists in the location or use of tangible personal property, so as to interfere with or obstruct a public right or regulation, as in the case of the float in the Albany basin (9 Wend. 571), or the nets in the present case, the legislature may, we think, authorize its summary abatement by executive agencies without resort to judicial proceedings, and any injury or destruction of the property necessarily incident to the exercise of the summary jurisdiction interferes with no legal right of the owner."

In *Bateman vs. Colgan*, 111 Cal. 587, this general principle is referred to as follows: "It is further objected that the provisions of section 2524 could not have been intended to apply to a work of this character, because the board of harbor commissioners is not authorized thereby to employ an architect, which it is argued is, in the essential nature of things, rendered necessary in the construction of such a building. *But, where power is given to perform an act*, the authority to employ all necessary means to accomplish the end is always one of the implications of the law, and, notwithstanding the omission of any special provisions to that end, it was competent for the board, in carrying out the purposes of the act, to employ all necessary means to fulfill its requirements."

If, therefore, injury unavoidably follows the summary eradication and destruction of the insects and pests, or their eggs or larvæ (the thing authorized by statute to be done), yet if such eradication and destruction are done without wanton or unnecessary injury, there is no legal interference with the rights of the owner of the property affected.

It must be borne in mind, however, that the board will be held to a strict account for any unnecessary destruction of property, and it will, therefore, be entirely a question of fact for them to determine, in each instance, just how far it is necessary for them to exercise their powers.

In reply to your second question, I have to say that the act creating

and defining the powers of the said board of horticultural commissioners does not give them the powers conferred upon the county board of horticultural commissioners. Their power seems to be confined to the dissemination of knowledge and the disinfection of suspected materials dangerous to orchards and trees, to prevent the spread of contagious diseases, and the establishment of quarantine regulations. But nowhere is a power given to destroy trees or abate nuisances.

In the absence of said statutory provisions, I am of the opinion that they have no such power.

Very truly yours,

TIREY L. FORD, Attorney General.  
By WM. M. ABBOTT, Deputy.

#### COMMISSIONER'S APPOINTMENT MANDATORY.

On November 26, 1909, an examination was given by the State Board of Horticultural Examiners in Fresno County for the purpose of qualifying candidates for the office of horticultural commissioner of that county. After the papers had been examined, the board found that only one aspirant (F. C. Schell) had procured the requisite number of credits to entitle him to be certified to the board of supervisors as a qualified man. Accordingly Mr. Schell's name was submitted to the board, who refused to appoint him. Mr. Schell then proceeded in court with a mandamus suit to compel the supervisors to make the appointment. The following is the decision of the court:

*In the Superior Court of the County of Fresno, State of California.*

F. C. SCHELL,

Plaintiff,

vs.

THE BOARD OF SUPERVISORS OF  
THE COUNTY OF FRESNO, STATE  
OF CALIFORNIA, and Thomas  
Martin, M. D. Huffman, Chris Jor-  
gensen, J. B. Johnson and W. D.  
Mitchell, as members of said Board  
of Supervisors,

Defendants.

Now, on this 13th day of June A. D. 1910, this cause came on regularly to be heard before the court sitting without a jury, a trial by jury having been expressly waived by stipulation of the parties made in open court and entered upon the minutes; plaintiff and petitioner, F. C. Schell, appearing by Snow & Freeman, Esqs., and N. C. Coldwell, Esq., his attorneys, and the defendants, appearing by Manson F. McCormick, Esq., Assistant District Attorney of the county of Fresno, State of California; testimony both oral and documentary, was offered and introduced for and on behalf of the respective parties, whereupon and after argument by counsel the case was submitted to the court for its findings and decision and the court being now fully advised in the premises does make and file the following findings of fact and conclusions of law:

1. That petitioner is a citizen and resident of the county of Fresno, State of California, and is the owner of real property in said county and is a taxpayer therein.

2. That the defendants, Thomas Martin, M. D. Huffman, Chris Jorgensen, J. B. Johnson and W. D. Mitchell are, and each of said defendants is, duly elected, qualified and acting members of the board of supervisors of the county of Fresno, State of California.

3. That on the 11th day of December, 1908, William Forsyth and twenty-eight other persons, each of whom was a resident freeholder of and the possessor of an orchard in the county of Fresno, State of California, presented to the Board of Supervisors of the county of Fresno, State of California, a petition signed by said William Forsyth and said twenty-eight other persons, which said petition stated that certain orchards in the county of Fresno, State of California, and certain nurseries therein and fruit-bearing trees of various descriptions therein were then infested with scale insects of various kinds, injurious to fruit, fruit trees and vines, and in said petition they prayed said Board of Supervisors of the county of Fresno, State of California, that a commissioner be appointed whose duty it shall be to supervise the destruction of such scale insects.

4. That said petition ever since said 11th day of December, 1908, has been, and is now, on file in the office of the clerk of said Board of Supervisors of the county of Fresno, State of California.

5. That at all times herein mentioned A. T. Garey, E. B. Collier and Edward K. Carnes have been and are now the duly appointed and qualified and acting members of the State Board of Horticultural Examiners of the State of California and have constituted and do now constitute said State Board of Horticultural Examiners of the State of California.

6. That more than thirty days before the 26th day of November, 1909, said State Board of Horticultural Examiners of the State of California duly published and posted in the manner required by law a notice that the said Board of Horticultural Examiners of the State of California would hold an examination in the city of Fresno, county of Fresno, State of California, on the 26th day of November, 1909, beginning at 10 o'clock a. m. at the Horticultural Commissioners' room at the courthouse for the purpose of examining candidates for the office of County Horticultural Commissioner, as provided for in section 2322 of the Political Code of the State of California, which said notice set forth the conditions and subject of such examination, and the publication and posting of such notice was for such time and in such manner in said county of Fresno as the State Board of Horticultural Examiners of the State of California in their judgment deemed advisable.

7. That on said 26th day of November, 1909, beginning at 10 o'clock in the morning of said day and in the Horticultural Commissioners' room in the courthouse in the city of Fresno, county of Fresno, State of California, such examination of candidates for Horticultural Commissioner was held by said State Board of Horticultural Examiners of the State of California.

8. That the petitioner was an applicant for examination for said appointment of Horticultural Commissioner for the county of Fresno,



in the State of California, at said time and place, and before taking the examination, petitioner paid a fee of \$5.00 therefor, which was by petitioner delivered to the person supervising said examination.

9. That petitioner was at the time and place mentioned and specified in said notice, so published and posted as hereinbefore stated, examined by said State Board of Horticultural Examiners of the State of California touching his qualifications for the office of Horticultural Commissioner of the county of Fresno, State of California, and said examination was upon the conditions and subjects so stated and set forth in said notice.

10. That on the 13th day of December, 1909, said State Board of Horticultural Examiners of the State of California certified to the Board of Supervisors of the county of Fresno, State of California, the names of the persons so examined they deemed competent and qualified for such office of Horticultural Commissioner of said county of Fresno, and recommended and nominated to said Board of Supervisors of the county of Fresno a list of the residents and citizens of the county of Fresno said State Board of Horticultural Examiners of the State of California deemed competent and qualified for such office.

11. That petitioner was and is the only person examined that the said State Board of Horticultural Examiners of the State of California deemed competent and qualified for such office of Horticultural Commissioner of the county of Fresno, and the name of petitioner was the only name contained in the list of residents and citizens of said county of Fresno so recommended and nominated to said Board of Supervisors of the county of Fresno, State of California, by said State Board of Horticultural Examiners of the State of California, as hereinbefore stated, and ever since said 13th day of December, 1909, petitioner has been and now is the only person certified by the said State Board of Horticultural Examiners of the State of California to the Board of Supervisors of the county of Fresno, State of California, as being competent and qualified for such office of Horticultural Commissioner of the said county of Fresno, and ever since said last mentioned date has been and now is, the only person recommended and nominated by said State Board of Horticultural Examiners of the State of California to said Board of Supervisors of the county of Fresno, State of California, as a fit, proper, competent and qualified person to be such Horticultural Commissioner of the said county of Fresno.

12. That immediately after said 13th day of December, 1909, it became, ever since has been and now is the duty of the said Board of Supervisors of the county of Fresno, State of California, and of said defendants Thomas Martin, M. D. Huffman, Chris Jorgensen, J. B. Johnson and W. D. Mitchell, as members of said Board of Supervisors, specially enjoined upon them by law as a duty resulting from their said office, trust and station to appoint a County Horticultural Commissioner of the county of Fresno, State of California.

13. That since said 13th day of December, 1909, and before the mak-

ing and filing of this petition, petitioner has demanded of said Board of Supervisors of the county of Fresno, State of California, and of said defendants Thomas Martin, M. D. Huffman, Chris Jorgensen, J. B. Johnson and W. D. Mitchell, as members of said Board of Supervisors, that they proceed to the performance of their said duty and appoint a Horticultural Commissioner of said county of Fresno, State of California, but to appoint said Horticultural Commissioner said defendants and each and all of them have refused and do still refuse.

14. That petitioner is entitled by right to be appointed Horticultural Commissioner of the county of Fresno, State of California, and petitioner is the party beneficially interested in this application and in the appointing of such Horticultural Commissioner of the county of Fresno, State of California.

15. That petitioner has no plain, speedy and adequate remedy in the ordinary course of law.

And as conclusions of law from the foregoing facts, the court finds and declares.

1. That petitioner is entitled to all the relief demanded in his said petition and is entitled to the order and judgment of this court.

That a peremptory writ of mandate under the seal of this court, issue to the said defendants, the Board of Supervisors of the county of Fresno, State of California, and Thomas Martin, M. D. Huffman, Chris Jorgensen, J. B. Johnson and W. D. Mitchell, as members of said Board of Supervisors, requiring and commanding them that they do immediately proceed to appoint a Horticultural Commissioner of the county of Fresno, State of California, and to appoint petitioner F. C. Schell to be such Horticultural Commissioner.

Let judgment be entered accordingly.

Dated: June 15, 1910.

H. Z. AUSTIN,  
Judge of said Superior Court.

## OFFICIAL OPINION OF THE ATTORNEY GENERAL.

### ERADICATION OF NOXIOUS WEEDS ON THE PUBLIC HIGHWAYS.

SAN FRANCISCO, November 28, 1910.

*J. W. Jeffrey, Esq., State Commissioner of Horticulture, Sacramento, Cal.*

DEAR SIR: Your favor of July 11, 1910, received. Therein you submit the following questions:

1. "Who is responsible for the removal of a weed nuisance from a public highway under section 2322a, the supervisor-overseer or the abutting property owner, assuming the roadway is of the ordinary type of easement for road purposes—or county road?

2. If the abutting property is responsible, there is no further question as to procedure. But if the supervisor or overseer is responsible under section 2322a, then upon whom should the notice to abate be served?

3. If notice is duly served upon the supervisor or overseer and is ignored, and the work is done as a county charge in accordance with the section, are the supervisors obliged to pay the bill?

4. If the bill is paid from the general county fund, can a lien be placed against the right of way so the road district fund involved could be made to bear the expense?"

Section 2322a of the Political Code, in its main provisions, is not intended to apply to the situation which you present. The owner of the easement of the highway is the county. It is the duty of the county road overseer, under section 2645 of the Political Code, to remove any weed nuisance therein. If he neglects his duty, it is within your authority to remove such weed nuisance, as section 2322a of the Political Code gives you the authority to abate nuisances, and section 3494 of the Civil Code provides that a public nuisance may be abated by any officer authorized thereto by law.

Therefore, the county horticultural commissioners have authority to abate these nuisances, either with or without first giving notice to the road overseer.

No lien may be filed against a right of way belonging to the county, so that a road district fund may be involved to bear the expense, without express authority therefor, and there is no express authority therefor.

The county must bear the expense of the abatement.

Very truly yours,

U. S. WEBB, Attorney General.

By R. C. VAN FLEET, Deputy.



## COUNTY ORDINANCES RELATING TO HORTICULTURE.

### BUTTE COUNTY.

Ordinance No. 245—An ordinance relating to the horticultural interests of Butte county.

*The board of supervisors of Butte county, State of California, do ordain as follows:*

SECTION 1. No person or persons, either as owner, agent, servant or employee, shall bring or cause to be brought into Butte County, State of California, from any place, district, county, state or foreign country, any trees, vines or shrubs, scions, buds, grafts, roots, plants, flowers or vegetables or fruit or fruit pits, without giving notice of their arrival at their destination within twenty-four hours thereafter, to a member of the board of horticultural commissioners of said Butte County or the local inspector of the district into which they are brought.

SEC. 2. No person or persons, either as owner, agent, servant or employee, shall keep in store, plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in section one (1) of this ordinance, or cause or permit the same to be stored, planted, sold, exposed for sale, given away or otherwise distributed, whether said articles were brought into said county of Butte, State of California, or were raised or grown in said county, if they are infested with any insect pest or their eggs, larvæ or pupæ or have any disease or fungus detrimental or injurious to vines or fruit trees or the product thereof, or to plant life; nor until they shall have first been inspected as hereinafter provided.

SEC. 3. Whenever any member of the county board of horticultural commissioners or any local inspector of said county of Butte, State of California, shall receive notice of the arrival at their destination of any of the articles enumerated in section one (1) of this ordinance, or that any of such articles raised or grown in said Butte County are ready for inspection, he shall (if within his jurisdiction) make a careful inspection of the same as promptly as possible, and if they or any of them shall be found infested with live scale, or insect pests, or their eggs, larvæ or pupæ, or to have any disease or fungus detrimental or injurious to vines or fruit trees or the product thereof, or to plant life, such infested or diseased articles shall either be disinfected to the satisfaction of the board of horticultural commissioners of said Butte County, or local inspector thereof acting under the direction of said board of commissioners, and to be held in quarantine until free from said scale, or insect pests, or their eggs, larvæ or pupæ, and from disease or fungus, or shall be destroyed under the direction of said board of commissioners or local inspector at the risk and expense of the owner, agent or shipper

thereof. Whether such infested or diseased articles be disinfected or quarantined or be destroyed, shall be wholly within the control and under the judgment of the board of horticultural commissioners of said county of Butte, State of California, except in the case of infested fruit, and they shall so order as in their judgment may be deemed best for the horticultural interests of the county. The owner, agent or shipper shall have the right to elect to remove infested fruit from the county within twenty-four (24) hours after having been notified in writing by a horticultural commissioner or a local inspector of said county that it is infested, or to have the same disinfected or destroyed as above provided; but he shall make his decision as soon as notified and inform the inspector whether or not he will remove the fruit.

SEC. 4. Whenever any member of the county board of horticultural commissioners of the county of Butte, State of California, or a local inspector thereof acting under the direction of said commissioners shall deem it necessary for the safety of horticultural interests of the county, he may hold in quarantine for information, subsequent inspection or disinfection and final order relative thereto, any of the articles enumerated in section one (1) of this ordinance whether grown or raised in this county or not for such time as in his judgment may be deemed by him necessary, and such articles so placed in quarantine shall not be removed from the place of quarantine during the time specified by the commissioner or inspector for said quarantine.

SEC. 5. Whenever any trees, vines, shrubs, scions, cuttings, roots, plants or fruit pits brought into Butte County, State of California, shall upon inspection by any member of the county board of horticultural commissioners be found to have been shipped from any place, district, state or foreign country where peach yellows, peach rosette, phylloxera, red spider of the orange (*Tetranychus mytilaspidis*) or white fly (*Aleyrodes citri*), exists, if, in the judgment of the commissioners, danger may be justly apprehended of their introduction, or of the introduction of either of them upon the articles so brought into said Butte County, then all such articles are hereby declared a nuisance and shall be destroyed under the direction of said horticultural commissioners of said Butte County at the expense of owner, agent or shipper thereof.

SEC. 6. Any person or persons who shall ship or bring or cause to be shipped or brought into the county of Butte, State of California, any trees, vines, scions, cuttings, buds, grafts, shrubs, plants, flowers, vegetables, fruit or fruit pits, or roots for planting or grafting, shall have placed upon or securely attached to each box, package or separate parcel of such articles a distinct mark or label showing the name of the grower, and of the place, district, county or state in the United States or in a foreign country where grown, and also such further marks or labels as the board of horticultural commissioners of said Butte County may require, to determine the liability of said articles to convey insect pests or diseases endangering the horticultural interests of the county.

SEC. 7. The owner or person in charge of or in possession of any orchard, nursery or other premise in the county of Butte, State of California, in or on which are growing any trees, plants, shrubs, vines, flowers, or vegetables, shall not allow any person to bring into his orchard, nursery or other premises, any box, basket, picking-sack (or leaves or other contents of the same), ladder or other article to convey injurious insects and which has been used in picking or in conveying fruit from any orchard, district, or neighborhood where injurious insects are known to exist unless such article has been disinfected to the satisfaction of a horticultural commissioner of said Butte County or the local inspector of the district into which said article is brought. Said owner or person in charge or in possession of said orchard, nursery or other premises shall report within twenty-four (24) hours thereafter to the local inspector in charge of that district, or to a horticultural commissioner of the county whenever he or any person in his employ, or on his premises shall find any white fly (*Aleyrodes citri*), red, purple, yellow, cottony cushion, pernicious or other dangerous scale on any fruit tree plant, vine, flower or vegetable on said premises; and shall keep the same a reasonable time safe from danger of distributing the pest for the inspection and attention of a horticultural commissioner or a local inspector of the said Butte County. All persons picking fruit in said county of Butte, State of California, shall report at once to the owner or person in charge or in possession of the premises on which the fruit is growing whenever they find any scale or other insect pest on the fruit they are picking. All packers of fruit and persons in charge of the packing of fruit and all dealers in fruit in said county of Butte, State of California, shall report within twenty-four hours thereafter to the local inspector of the district in which they are packing or doing business, or to a horticultural commissioner of said county, whenever they, or any person in charge or in their employ, shall find any fruit infested with any scale or other injurious insect pest; and shall keep the same a reasonable time safe from danger of distributing the pest, for the inspection and attention of a horticultural commissioner or local inspector of said Butte County.

SEC. 8. It shall be the duty of the board of horticultural commissioners of said county of Butte, State of California, to enforce the provisions of this ordinance and for such purposes they may make such rules and regulations as in their judgment are necessary to make this ordinance effective. The board of horticultural commissioners of the said county of Butte, State of California, shall render to the board of supervisors of the said county monthly, on the first Monday of each and every month, a statement of all expenditures and receipts under the provisions of this section of this ordinance, and shall deposit with treasurer of the said county, monthly, all funds received for the use of the fumigating outfits and file with the monthly statement to the supervisors of said county the receipts of the treasurer of said county for the same.

SEC. 9. Any person violating any of the provisions of this ordinance



shall be guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in the county jail of Butte County for a term of not less than ten days and not more than one hundred days, or by a fine of not less than ten dollars and not more than one hundred dollars, or by both such fine and imprisonment.

SEC. 10. This ordinance shall take effect and be in force fifteen days after its passage.

Passed on the 12th day of December, 1908, by the following vote: Ayes—Porter, Wilson and Rutherford. Noes—None. Absent—Brown and Shirley.

W. D. RUTHERFORD,

*Chairman of the Board of Supervisors.*

Attest: H. T. BATCHELDER,

*Clerk of the Board of Supervisors.*

### HUMBOLDT COUNTY.

Ordinance No. 50—An ordinance for the regulation of the sale of fruits and fruit trees.

*The board of supervisors of the county of Humboldt do ordain as follows:*

SECTION 1. It is hereby made unlawful for any person, partnership or corporation to import into the county of Humboldt, any fruit, fruit trees, or vines infested with San Jose scale or codling-moth.

SEC. 2. It is hereby made unlawful for any person, partnership or corporation, to sell, retail, or give away, within the corporate limits of the county of Humboldt, any fruit, fruit trees or vines, infested with San Jose scale or codling-moth.

SEC. 3. Any person, partnership, or corporation violating any of the provisions of sections one and two of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding one hundred dollars.

SEC. 4. It shall be the duty of the county commissioners of horticulture to inspect all fruit, fruit trees and vines imported into the county of Humboldt, and, if found infested with San Jose scale or codling-moth, immediately to notify the owners or those in possession thereof to destroy, disinfect or dispose of the same in such manner as said commissioners may direct.

SEC. 5. Any person, partnership or corporation of the county of Humboldt, that refuses to permit the county commissioners of horticulture to inspect all fruits, fruit trees and vines in possession of said persons, partnership or corporation, and that refuses or neglects to destroy, disinfect or dispose of such fruit, fruit trees or vines, when found infested with San Jose scale or codling-moth, in accordance with the directions of the commissioner inspecting the same, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding one hundred dollars.

SEC. 6. This ordinance shall take effect and be in force from and after the 23d day of November, 1893.

On motion of Supervisor Moore, seconded by Supervisor Scott, the foregoing ordinance was adopted, Supervisors Moore, Scott, Hill, Swortzel, and Mercer voting in favor thereof, and no one voting against the same.

Further ordered, that the foregoing ordinance be published in the "Daily Humboldt Times," for at least ten days preceding the 23d day of November, 1893.

H. M. MERCER,

*Chairman of Board of Supervisors.*

**Ordinance No. 60—An ordinance to prevent the spread of noxious insects in Humboldt county.**

*The board of supervisors of Humboldt county do ordain as follows, to wit:*

SECTION 1. Every person who shall sell, buy, expose for sale, give away or distribute, to be used in the county of Humboldt, any fruit of any kind infested with codling-moth or scale insects, their eggs or larvæ, or who shall import or bring the same into the county of Humboldt, shall be guilty of a misdemeanor, and shall be punishable by fine not exceeding fifty dollars, or by imprisonment not exceeding fifty days, or by both such fine and imprisonment.

SEC. 2. It shall be the duty of the county board of horticultural commissioners, and of each member thereof, to investigate violations of this ordinance and institute prosecutions therefor.

The ordinance shall take effect on July 25th, 1898.

On motion of Supervisor Pine, seconded by Supervisor Scott, the foregoing ordinance was adopted. Supervisors Pine, Scott, Swortzel, Clark, and McLeod voting in favor thereof, and no one voting against the same.

Further ordered, that the foregoing ordinance be published in the "Ferndale Enterprise," "Eel River Valley Advance," "Arcata Union," and "Humboldt Weekly Standard" for at least one week preceding the 25th day of July, 1898.

W. J. SWORTZEL,

*Chairman of Board of Supervisors.*

NOTE.—Ordinance No. 50, as you will notice, was passed in 1893, at which time the state law probably did not cover all the points involved.

Ordinance No. 60 was intended to prevent the transportation and peddling of infected fruit within the county itself. The fruit areas here are widely separated, the climatic conditions in the more remote ones being most favorable to the development of injurious insects.

J. E. JANSSEN,

*Secretary, Board of Horticultural Commissioners.*

## IMPERIAL COUNTY.

Ordinance No. 7B—An ordinance to promote the horticultural interests of Imperial county, California, and providing for the inspection and destruction of insect pests, and providing restrictions upon the importation of cuttings, fruit, etc., and providing punishment for the violation thereof.

*The board of supervisors of Imperial county, State of California, do ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant, or other employé, shall bring for delivery or cause to be brought for delivery, into the county of Imperial, from any other place or places without said county of Imperial, any trees, plants, vines, shrubs, scions, cuttings, buds or grafts, fruit, boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds or grafts, without giving written notice of their arrival at their destination within twenty-four hours thereafter, and prior to their removal from said point of destination, to the horticultural commissioners of said county, or to the local inspector of the district into which the same are brought; nor shall either the persons, parties or corporations above named remove the same from the place of their destination until inspected as hereinafter provided.

SEC. 2. Any person or persons, corporation or corporations, mentioned in Section 1 of this ordinance, who shall ship or bring, or cause to be shipped or brought into Imperial County, California, any trees, cuttings, buds, grafts, shrubs, fruit or plants, shall have placed upon or securely attached to each package, box, or separate parcel of such articles a distinct mark or label showing the name of the agent, owner, or shipper, the name of the grower, and the place where grown.

SEC. 3. Upon receiving the notification mentioned in section 1 hereof, or any other information, of such importation, the horticultural commission, or the local inspector receiving the same, shall, as soon thereafter as practicable, carefully inspect the article, reference to which notice was served or information received. If it appears that the importation is of shrubs, scions, cuttings, grafts, or buds, and that the same were grown outside of the State of California infested with the white fly (*Aleyrodes citri*), red spider (*Tetranychus mytilaspidis*), red scale (*Aspidiotus aurantii*), yellow scale (*Aspidiotus citrinus*), purple scale (*Mytilaspidis citricola*), or any other injurious insects, not prevalent, it shall be the duty of the horticultural commission to at once cause the same to be destroyed. If it appears that the importation is of boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, fruit or grafts from any place infested with the white fly, red spider, red scale, yellow scale or purple scale, or if it shall appear that the transportation of the same is from one district which is infested with the red spider, red scale, yellow scale or purple scale, or any other injurious insect within



said county to another district within said county, then it shall be the duty of the horticultural commission to cause the same to be disinfected by a thorough fumigation with cyanide of potassium.

SEC. 4. If it shall appear that the importation, notice of which is required to be given by section 1 hereof, consists of grapevines, scions, rootings, grafts, buds or cuttings, from any grapevine grown in or shipped from any infested district shall immediately be destroyed.

SEC. 5. It shall be unlawful to sell any vines, cuttings, rootings, grafts, scions or buds imported from any district, except upon the written permit of the board of horticultural commissioners, stating that said plants have been inspected and treated as hereinbefore provided, and that the same did not come from any infested district and are free from insect pests.

SEC. 5a. It shall be unlawful for any person, firm, company or corporation, etc., to import into Imperial County, any vines, shrubs, scions, cuttings, grafts, buds, citrus trees, scions or buds, from north of the north line of San Luis Obispo, Kern, and San Bernardino counties, of the State of California, or from the states of Florida or Louisiana.

The provisions of this section do not apply to shipments from any lawfully authorized state farm or agricultural school, or United States experiment station, or agricultural school or college.

SEC. 6. The horticultural commission shall adopt such rules in relation to the application for permits provided for in the preceding sections as in their judgment may be necessary.

SEC. 7. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 8. All ordinances and parts of ordinances in conflict herewith, are hereby repealed.

SEC. 9. This ordinance shall take effect and be in force on and after the 19th day of March, 1909, and a copy thereof shall be printed and published in the "Imperial Valley Press," a newspaper printed and published in said Imperial County, for one issue before said date.

Passed, approved and adopted this 2d day of March, 1909.

R. H. CLARK,

*Chairman Board of Supervisors of Imperial  
County, State of California.*

The above ordinance was adopted by the following vote: Ayes—Supervisor McHarg, voting yes; Supervisor Clark voting yes; Supervisor Webster voting yes; Supervisor Wade voting yes; Supervisor Ferguson voting yes.

Attest my hand and seal of the board of supervisors of Imperial County, this 2d day of March, 1909.

D. S. ELDER,

*Clerk of the Board of Supervisors of Imperial  
County, State of California.*

**Ordinance No. 16**—An ordinance prohibiting the importation of Johnson grass and other noxious weeds; providing means for the eradication thereof when found in Imperial County; and providing punishment for the violation thereof.

*The board of supervisors of the county of Imperial do ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant or other employé shall bring for delivery or sale, or cause to be brought for delivery or sale into the county of Imperial, any seeds or plants of Johnson grass, Russian thistle, Canada thistle, or any other noxious weed, seed or plants, or shall import any hay or grain or any field products from any section known to be infested with such noxious weeds, or transfer any hay, grain or other field product containing Russian thistle, Canada thistle, Johnson grass, or other noxious weeds or the seeds of any of the same, from one field or farm on to another field or farm within this county.

SEC. 2. If it shall be proven to the horticultural commission that there are any lands within the county of Imperial infested with Johnson grass, Russian thistle, Canada thistle, or any other noxious weeds or grasses, then the horticultural commission shall give the party or parties owning or controlling said land notice to immediately take steps to destroy said noxious weeds; and if said party whose land is infested with said noxious weeds, grasses and plants shall refuse or neglect to destroy said weeds, then it shall become the duty of the horticultural board to declare such noxious weeds, grasses and plants a nuisance, and the said horticultural board shall proceed to destroy said noxious weeds, plants and grasses at the expense and cost of the owner of the infested land.

SEC. 3. If any person or persons, agents or lessors, owning or controlling any lands known to be infested with any noxious weeds, grasses or plants, as before mentioned, shall in any way interfere with the horticultural commissioners in their efforts to eradicate such weeds, grasses or plants, or shall violate the first section of this ordinance they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

SEC. 4. This ordinance shall take effect and be in force on and after the 24th day of September, 1908, and a copy hereof shall be printed and published in the "Imperial Valley Press," a newspaper printed and published in said Imperial County, for one week before said date.

Passed, approved and adopted this 8th day of September, 1908.

(Signed) F. S. WEBSTER,  
*Chairman of Board of Supervisors of Imperial  
County, California.*

The foregoing ordinance was passed by the following vote:

Ayes—Supervisors Webster, Ferguson, Clark, Wade, and McHarg.

Noes—None.

Attest: (Signed) D. S. ELDER,  
*Clerk of the Board of Supervisors.*

## KINGS COUNTY.

**Ordinance No. 40**—An ordinance for the protection of horticulture, and to prevent the introduction into the county of Kings of insects or diseases injurious to vines or vegetables, and to provide for a quarantine for the enforcement of this ordinance.

*The board of supervisors of the county of Kings do ordain as follows:*

SECTION 1. It is hereby declared unlawful for any person or persons or association or corporation to ship or bring into the county of Kings vines of any variety from any point or place within the State of California north of the northern boundary of Madera County or south of Caliente, in Kern County, and it shall be unlawful for any person or persons, association or corporation within the county of Kings, to buy, or receive within the county of Kings vines of any variety grown or raised at any point or place in the State of California, lying and being north of the boundary of said Madera County or south of Caliente, in said Kern County.

*Second*—It is hereby made the duty of, and the horticultural commission of the county of Kings are hereby instructed to inspect all vines brought into the county of Kings from any and all points outside of the territory of the said county of Kings, and to diligently prosecute any and all persons guilty of a violation of this ordinance and to take all lawful and necessary means to fully enforce the same.

Any person or corporation violating the provisions of this ordinance is guilty of a misdemeanor.

This ordinance shall take effect and be in force from and after the 26th day of February, 1900.

The foregoing ordinance adopted by said board of supervisors on this 9th day of February, 1900, by the following vote, to wit:

Ayes—McJunkin, Chittenden, McLaughlin, Tomer, and Burr.

J. T. MCJUNKIN,

*Chairman of Board of Supervisors.*

**Ordinance No. 66**—An ordinance to provide for the prevention of the introduction and spread of phylloxera, the mysterious vine disease known as Anaheim, and all other diseases of grapes and grapevines, in the county of Kings, State of California.

*The board of supervisors of the county of Kings, State of California, do ordain as follows:*

SECTION 1. It shall be unlawful for any person, persons, firm, or corporation, either as owner, agent, factor, broker, servant, employé, common carrier, or otherwise, to import, ship, or in any way bring, or convey or cause to be brought or conveyed, into the county of Kings, State of California, any grapevine, grapevine root, grapevine rootling, or grapevine scion, cutting or limb, or any variety or species whatever, or to have or receive in said county of Kings, either as owner, agent, factor, broker, servant, employé, common carrier, consignee, or otherwise, any grapevine, grapevine root, grapevine rootling or grapevine scion, cutting or limb, imported, shipped or in anywise brought or con-



veyed into said county of Kings from any place outside of said county, without complying with each and all of the provisions and restrictions provided and specified in this ordinance.

SEC. 2. Any and all grapevines, grapevine roots, grapevine rootings and grapevine scions, cuttings and limbs in any way imported, shipped, conveyed or brought into said county of Kings from any place outside of said county, not in accordance with the provisions and restrictions of this ordinance are hereby declared to be nuisances, and the board of horticultural commissioners of said county of Kings are hereby authorized to destroy the same and to abate such nuisances, and to do any and all things necessary or proper to carry the provisions of this ordinance into effect.

SEC. 3. It shall be unlawful for any person, persons, firm, or corporation, either as owner, agent, factor, broker, servant, common carrier, consignee, or otherwise, to import, ship, or in any way bring or convey into said county of Kings any grapevine, grapevine root, grapevine rooting, or grapevine scion, cutting or limb, that is in any way affected by or infested with either phylloxera or the mysterious vine disease known as Anaheim, or which has been grown in, or taken from any nursery, or vineyard, or place, or neighborhood where either phylloxera or said mysterious disease of the vine known as Anaheim exists, or shall hereafter exist; and every person, firm, corporation or association of persons, before importing, shipping, or in any way bringing or conveying into said county of Kings from any place without said county, any grapevine root, or grapevine rooting, shall make, execute and give to said county of Kings a good and sufficient bond, with two sufficient sureties, in the penal sum of five thousand dollars, conditioned for the due and faithful compliance with all of the provisions and restrictions of this section of this ordinance, so far as they relate to the importing, shipping, bringing and conveying into said county of Kings of grapevines, grapevine roots, grapevine rootlings, grapevine scions, cuttings and limbs, which bond shall be approved by said board of supervisors, and shall be filed with the clerk of said board; and any bond given under the provisions of this section shall cover all grapevine, grapevine roots, grapevine rootlings, grapevine scions, limbs or cuttings, imported, shipped or in any way brought or conveyed into said county of Kings by the person, firm, corporation or association of persons giving the same for the period of four years from and after the time of filing the same with said clerk; and on the expiration of any period covered by any such bond, a new bond in the same form, for the same amount, and conditioned as aforesaid, shall be given by such person, firm, corporation, or association of persons before importing, shipping, bringing or in any way conveying into said county of Kings, any more or other grapevines, grapevine roots, grapevine rootlings, grapevine scions, limbs or cuttings.

SEC. 4. Any person, firm, corporation, common carrier or association of persons, that shall receive in said county of Kings, or shall bring or convey, or cause to be brought or conveyed, into said county of Kings,

whether as owner, agent, broker, factor, servant, employee, consignee, common carrier or otherwise, any grapevine, grapevine root, grapevine rootling, or grapevine scion, cutting, or limb, from any place outside of said county of Kings, shall, within twenty-four hours after the arrival of the same, notify or cause to be notified, a horticultural commissioner of said county of Kings of such arrival, and the place in said county of Kings where the same has arrived, and shall safely hold the same without any unnecessary moving, and without planting the same, and without placing the same where they can become harmful or injurious, for a reasonable time, for inspection by the horticultural commissioners of said county of Kings, or by some inspector or person authorized by said horticultural commissioners to inspect the same; and the said board of horticultural commissioners are hereby authorized to inspect, or to cause to be inspected, all such grapevines, grapevine roots, grapevine rootlings, and grapevine scions, cuttings and limbs in any way brought into said county of Kings from any place outside of said county of Kings; and if on such inspection any of the same shall be found to be affected with any infectious or contagious disease, or infested with any injurious insects, or their eggs, larvæ, or pupæ, or if reasonable ground or cause be found to presume that any of the same is so diseased or so infested, the said board of horticultural commissioners are hereby authorized to do any and all things which in their judgment may be necessary or proper to disinfect the same, and to eradicate such disease, and to destroy such insects, eggs, larvæ, and pupæ, and to prevent the introduction or spread of such disease or insects in said county of Kings; and if in their judgment it is necessary to destroy the whole or any portion of any shipment, crate, or package, or bundle of grapevines, grapevine roots, grapevine rootlings, or grapevine scions, cuttings, limbs, among which any such disease or infection is found, or reasonable cause or ground found to presume that such disease or infection exists, for the purpose of preventing the introduction or spread of such disease, infection, or insects, in said county, the said horticultural commissioners are hereby authorized to destroy the same.

SEC. 5. It shall be unlawful for any person, firm, corporation, or association of persons, either as owner, agent, broker, factor, servant, employee, consignee, common carrier, or otherwise, to deliver, remove from the place of arrival, plant, or put in any place where the same may become harmful or injurious, any grapevine, grapevine root, grapevine rootlings, or grapevine scion, cutting or limb, imported or in any way brought into the said county of Kings, until the same has been inspected, or caused to be inspected, by said horticultural commissioners as herein provided, and found upon such inspection to be free and clear of all contagious and infectious diseases, and free and clear of all injurious insects, their eggs, larvæ, and pupæ, and free from all reasonable ground and cause to presume the same affected with any such disease, or infested with any such insects, their eggs, larvæ, or pupæ; but the restrictions of this section shall not apply in any case where said horticultural commissioners shall refuse to make an inspection, or

cause an inspection to be made, or shall fail or neglect to make an inspection, or to cause an inspection to be made, within a reasonable time after receiving notice of arrival as herein provided, and in no case shall a reasonable time to make such inspection be construed to be less than five days from and after receipt of such notice of arrival.

SEC. 6. Any person, persons, firm, or corporation, or association of persons, violating any of the provisions of this ordinance, or doing any act herein declared to be unlawful, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, at the discretion of the court.

SEC. 7. This ordinance shall take effect and be in force from and after the 13th day of February, 1907, and shall be published prior thereto for one week in the "Hanford Journal," a semi-weekly newspaper of general circulation, printed and published in said county of Kings, and that certain ordinance numbered 43, adopted by said board of supervisors, on the eighth day of February, 1901, is hereby repealed.

The foregoing ordinance is adopted by said board of supervisors of the county of Kings, State of California, this 28th day of January, 1907, by the following vote, to wit: Ayes—J. E. Hall, G. E. Shore, W. S. Burr, A. F. Smith, L. Y. Montgomery. Noes—None.

W. S. BURR,

*Chairman of the Board of Supervisors of the  
County of Kings, State of California.*

**Ordinance No. 69—An ordinance to provide for the prevention of the introduction and spread of any and all diseases of peaches, apricots and nectarines; peach trees, apricot trees and nectarine trees, in the county of Kings, State of California.**

*The board of supervisors of the county of Kings, State of California, do  
ordain as follows:*

SECTION 1. It shall be unlawful for any person, persons, firm or corporation, either as owner, agent, factor, broker, servant, employee, common carrier, or otherwise, to import, ship or in any way bring or convey, or cause to be brought or conveyed, into the county of Kings, State of California, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever, or to have or receive in said county of Kings, either as owner, agent, factor, broker, servant, employee, common carrier, consignee, or otherwise, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings,



imported, shipped, or in any wise brought or conveyed into said county of Kings, from any place outside of said county of Kings, without complying with each and all of the provisions and restrictions provided and specified in this ordinance.

SEC. 2. Any and all peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings in any way imported, shipped, conveyed or brought into said county of Kings, from any place outside of said county of Kings, not in accordance with the provisions and restrictions of this ordinance, are hereby declared to be nuisances, and the board of horticultural commissioners of said county of Kings are hereby authorized to destroy the same and to abate such nuisances, and to do any and all things necessary or proper to carry the provisions of this ordinance into effect.

SEC. 3. It shall be unlawful for any person, persons, firm or corporation, either as owner, agent, factor, broker, servant, common carrier, consignee or otherwise, to import, ship or in any way bring or convey into said county of Kings, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings that is or are in any way affected by or infested with any infectious or contagious diseases, or affected or infested with any injurious insects, or their eggs, or larvæ, or pupæ injurious to peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety, or which has been grown in, or taken from any nursery or orchard or place or neighborhood where any infectious or contagious disease, or any injurious insects or their eggs, or larvæ, or pupæ exists, or shall hereafter exist, and every person, firm, corporation or association of persons before importing, shipping or in any way bringing or conveying into said county of Kings, from any place without said county, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings, shall make, execute and give to said county of Kings a good and sufficient bond with two or more sureties in the penal sum of five thousand dollars, conditioned for the due and faithful compliance with all the provisions and restrictions of this section of this ordinance, so far as they relate to

the importing, shipping, bringing and conveying into said county of Kings, of peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species of any variety, which bond shall be approved by said board of supervisors, and shall be filed with the clerk of said board; and any bond given under the provisions of this section shall cover all peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety, imported, shipped or in any way brought or conveyed into said county of Kings, by the person, firm, corporation or association of persons giving the same for the period of four years from and after the time of filing the same with said clerk, and on the expiration of any period covered by any such bond, a new bond in the same form, for the same amount, and conditioned as aforesaid, shall be given by such person, firm, corporation, or association of persons, before importing, shipping, bringing or in any way conveying into said county of Kings, any more or other peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever.

SEC. 4. Any person, firm, corporation, common carrier or association of persons, that shall receive in said county of Kings, or shall bring or convey, or cause to be brought or conveyed, into said county of Kings, whether as owner, agent, broker, factor, servant, employee, consignee, common carrier or otherwise, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever, from any place outside of said county of Kings, shall, within twenty-four hours after the arrival of the same, notify or cause to be notified, a horticultural commissioner of said county of Kings of such arrival, and the place in said county of Kings where the same has arrived, and shall safely hold the same without any unnecessary moving, and without planting the same, and without placing the same where they can become harmful or injurious, for a reasonable time, for inspection by the horticultural commissioners of said county of Kings, or by some inspector or person authorized by said horticultural commissioners to



inspect the same; and the said board of horticultural commissioners are hereby authorized to inspect, and to cause to be inspected, all such peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot trees, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine trees, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species, from any place outside of said county of Kings, shall, within twenty-four hours after the arrival of the same, notify or cause to be notified a horticultural commissioner of said county of Kings of such arrival, and the place in said county of Kings where the same has arrived, and shall safely hold the same without any unnecessary moving, and without planting the same, and without placing the same where they can become harmful or injurious, for a reasonable time, for inspection by the horticultural commissioners of said county of Kings, or by some inspector or person authorized by said horticultural commissioners to inspect the same; and the said board of horticultural commissioners are hereby authorized to inspect, and to cause to be inspected, all such peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot trees, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine trees, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever, in any way brought into said county of Kings from any place outside of said county of Kings; and if on such inspection any of the same shall be found to be affected with any infectious or contagious disease, or infested with any injurious insects, or their eggs, larvæ, or pupæ, or if reasonable ground or cause be found to presume that any of the same is so diseased or so infested, the said board of horticultural commissioners are hereby authorized to do any and all things which in their judgment may be necessary or proper to disinfect the same, and to eradicate such disease, and to destroy such insects, eggs, larvæ and pupæ, and to prevent the introduction or spread of such disease or insects in said county of Kings; and if in their judgment it is necessary to destroy the whole or any portion of any shipment, crate, or package, or bundle of peach trees, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree, scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever, among which any such disease or infection is found, or reasonable cause or ground found to presume that such disease or infection exists, for the purpose of preventing the introduction or spread of such disease, infection, or insects, in said county, the said horticultural commissioners are hereby authorized to destroy the same.



SEC. 5. It shall be unlawful for any person, firm, corporation, or association of persons, either as owner, agent, broker, factor, servant, employee, consignee, common carrier, or otherwise, to deliver, remove from the place of arrival, plant, or put in any place where the same may become harmful or injurious, any peach tree, peach tree pits, peach tree scion, peach tree buds, peach tree grafts, or peach tree seedlings; or any apricot tree, apricot tree pits, apricot tree scion, apricot tree buds, apricot tree grafts, or apricot tree seedlings; or nectarine tree, nectarine tree pits, nectarine tree scion, nectarine tree buds, nectarine tree grafts, or nectarine tree seedlings of any variety or species whatever, imported or in any way brought into the said county of Kings, until the same has been inspected, or caused to be inspected, by said horticultural commissioners as herein provided, and found upon such inspection to be free and clear of all contagious and infectious diseases, and free and clear of all injurious insects, their eggs, larvæ, and pupæ, and free from all reasonable ground and cause to presume the same affected with any such disease, or infested with any such insects, their eggs, larvæ, or pupæ; but the restrictions of this section shall not apply in any case where said horticultural commissioners shall refuse to make an inspection, or cause an inspection to be made, or shall fail or neglect to make an inspection, or to cause an inspection to be made, within a reasonable time after receiving notice of arrival as herein provided; and in no case shall a reasonable time to make such inspection be construed to be less than five days from and after receipt of such notice of arrival.

SEC. 6. Any person, persons, firm, or corporation, or association of persons, violating any of the provisions of this ordinance, or doing any act herein declared to be unlawful, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, at the discretion of the court.

SEC. 7. This ordinance shall take effect and be in force from and after the twenty-eighth day of October, 1907, and shall be published prior thereto for one week in the Hanford "Journal," a semi-weekly newspaper of general circulation, printed and published in said county of Kings, and all other ordinances, or parts of ordinances of Kings County in conflict with the provisions of this ordinance are hereby repealed.

The foregoing ordinance is adopted by said board of supervisors of the county of Kings, State of California, this 11th day of October, 1907, by the following vote, to wit:

Ayes—W. S. Burr, L. Y. Montgomery, J. E. Hall, G. E. Shore, and A. F. Smith.

W. S. BURR,

*Chairman of the Board of Supervisors of the  
County of Kings, State of California.*

FRANCIS CUNNINGHAM,

*County Clerk of the County of Kings, and ex officio  
Clerk of the said Board of Supervisors.*

[SEAL.]

NOTE.—Ordinances 66 and 69 both have been a great success in every way. By their use we are able to keep out Eastern stock. No. 69 can not be valued too highly. No. 66 has been a great help. I think we can say without boasting that we have the cleanest county in the State.

B. V. SHARP.

#### LOS ANGELES COUNTY.

Ordinance No. 42 (new series)—An ordinance to promote the horticultural interests of Los Angeles county, California, and providing for the inspection and destruction of insect pests, and providing for restrictions upon the importation of cuttings, etc.

*The board of supervisors of Los Angeles county, State of California, do ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant, or other employee, shall bring for delivery, or cause to be brought for delivery, into the county of Los Angeles from any other place or places without said county, any trees, plants, vines, shrubs, scions, cuttings, buds or grafts, without giving written notice of their arrival at their destination within twenty-four hours thereafter, and prior to removal from said point of destination, to the horticultural commissioners of the said county, or to the local inspector of the district into which the same are so brought; nor shall either the persons, parties or corporations above named remove the same from the place of their destination until inspected as hereinafter provided.

SEC. 2. Any person or persons, corporation or corporations, mentioned in section one of this ordinance who shall ship, or bring, or cause to be brought or shipped into Los Angeles County, California, any trees, scions, cuttings, buds, grafts, shrubs or plants, shall have placed upon or securely attached to each package, box or separate parcel of such articles a distinct mark or label showing the name of the owner, agent or shipper, the name of the grower, and the place where grown.

SEC. 3. Upon receiving the notification mentioned in section 1 hereof, or any other information of such importance, the horticultural commission, or the local inspector receiving the same, shall, as soon thereafter as practicable, carefully inspect the article, reference to which notice was served. If it appears that the importation is of citrus trees, shrubs, scions, cuttings, grafts or buds, and that the same were grown in the state of Louisiana, Florida, or any other place infested with the white fly (*Aleyrodes citri*), it shall be the duty of the horticultural commission to at once cause the same to be disinfected by a thorough application of kerosene emulsion. After such application, the tree, shrub, scion, cutting, graft or buds shall remain in the custody of the importer in a place thoroughly isolated from any other citrus trees, shrubs, scions, cuttings, grafts, or buds; and such place to be so arranged that if the same are infested with the white fly, said insect could not escape therefrom to any other trees or plants in the neighborhood; and if not so isolated, said plants are hereby declared to be a public nuisance, and it shall be the

duty of the horticultural commission to cause the same to be destroyed. Two weeks after the first application of kerosene emulsion, as herein provided, the same shall be again thoroughly treated to a kerosene emulsion, and again at the end of another period of two weeks the same shall be treated for the third time with kerosene emulsion. Thereafter such importation shall remain in the custody of the importer, and without being set out in orchard form, thoroughly isolated, as aforesaid, for the period of at least one year; and the same shall be inspected as often during that period as in the judgment of the horticultural commission may be deemed necessary; and if upon any such inspection, it appears that the same are in fact infested with white fly in any stage of existence, or with their eggs, the entire consignment shall be at once destroyed by the horticultural commission.

SEC. 4. In addition to the foregoing treatment for the eradication of the insect pest known as the white fly, the horticultural commissioners may require any additional treatment or disinfection which, in their judgment, would more effectively disinfect the same; and shall require the wrappings in which said trees were imported, to be burned or thoroughly disinfected.

SEC. 5. If it shall appear that the importation, notice of which is required to be given, by section one hereof, consists of grapevines, scions, rootlings, grafts, buds or cuttings from any grapevine grown in or shipped from any county in the State of California north of the north line of San Luis Obispo, Kern, and San Bernardino counties, or from any district infested with phylloxera of the vine, it shall be the duty of the horticultural commissioners to cause said cuttings, vines, rootlings, grafts, scions or buds to be exposed for at least twenty-four hours to a saturated atmosphere of carbon bisulphide. Thereafter the said vines, rootlings, cuttings, grafts, scions or buds shall remain in the custody of the importer for such length of time as may in the judgment of the horticultural commission be necessary to determine whether or not the same are infested with phylloxera; not, however, less than six months. If at any time it shall appear upon inspection of such importation, that the same is infested with phylloxera, the entire consignment shall be destroyed.

SEC. 6. It shall be unlawful to sell or plant in orchard form or to attach to any growing trees in the county of Los Angeles any citrus cuttings, grafts, trees, scions or buds from the states of Florida or Louisiana without first obtaining from the board of horticultural commissioners a written permit to such sale or use, stating that the same have been inspected and treated as hereinbefore provided; and that in the judgment of the said horticultural commission, the same are free from insect pests.

SEC. 7. It shall be unlawful to sell any vines, cuttings, rootlings, grafts, scions, or buds imported from the district north of the north line of Kern, San Luis Obispo, and San Bernardino counties in the State of California, except upon the written permit of the board of horticultural commissioners, stating that the said plants have been inspected



and treated as hereinbefore provided, and that in their judgment the same are free from insect pests.

SEC. 8. The horticultural commission shall adopt such rules in relation to application for permits, provided for in the two preceding sections, as in their judgment may be necessary.

SEC. 9. Any person importing for the purposes of sale any citrus plant, tree, vine, cutting, rootling, graft or bud from the states of Florida or Louisiana, or from any other state or district or county infested with the white fly; and any person importing for the purposes of sale any vine, cutting, citrus trees, plant, rootling, graft, or bud from any place herein designated as infested with phylloxera; or importing said vine or citrus plants from any other point hereinafter designated on the minutes of the board of horticultural commissioners of Los Angeles County as a point infested with the white fly or phylloxera respectively, shall pay a license of fifty dollars per quarter; which license shall be in the usual form of county licenses and issued by the tax collector, and shall state the place or places for which the holder thereof is licensed and authorized to import as aforesaid. Applications for such licenses shall be made to the said board of horticultural commissioners, and shall be accompanied by a good and sufficient bond with two sureties in the penal sum of five thousand dollars for the faithful compliance with the terms of this ordinance; and when approved by them the tax collector shall be by them authorized to issue said license, but not before.

SEC. 10. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 11. An ordinance entitled "An ordinance to promote the horticultural interests of Los Angeles County, California," passed by the board of supervisors of Los Angeles County on the 3d day of November, 1891, is hereby repealed.

SEC. 12. This ordinance shall take effect and be in force on and after the 15th day of July, 1901; and prior to the expiration of fifteen days from the passage hereof, shall be published for at least one week in the "Los Angeles Daily Journal," a newspaper printed and published in the county of Los Angeles, State of California, together with the names of the members of the board of supervisors voting for and against the same.

E. S. FIELD,

*Chairman of the Board of Supervisors of the County  
of Los Angeles, State of California.*

Ordinance No. 210 (new series)—An ordinance to amend an ordinance entitled "Ordinance No. 65 (new series)—Imposing licenses and fixing rates thereof in the county of Los Angeles, State of California," adopted January 20, 1903, by adding thereto a new section relating to the business of spraying and fumigating trees and orchards.

*The board of supervisors of the county of Los Angeles do enact as follows:*

SECTION 1. Ordinance No. 65 (new series), of the county of Los Angeles, entitled "Ordinance No. 65 (new series), imposing licenses and fixing rates thereof in the county of Los Angeles, State of California," adopted January 20, 1903, is hereby amended by adding thereto a new section, to be numbered Section 31a, and to read as follows:

31a. Every person who engages in, conducts or carries on the business of spraying or fumigating trees, plants, vines or orchards, shall pay a license fee of three dollars per quarter; *provided*, that no such license shall be issued except upon a written permit from the board of horticultural commissioners. Said board of horticultural commissioners shall, upon application being made to them for any such permit, examine the applicant and the implements and apparatus to be used by him in such business, and grant such permit only if they find that the applicant understands the proper conduct of such business and is competent to engage therein, and that the said implements and apparatus are properly constructed and suitable for said business. Whenever any person holding such permit does any spraying or fumigating in a negligent or unskillful manner, or uses therefor improper materials or unfit or improperly constructed apparatus or implements, said board of horticultural commissioners may, upon notice to such person, and after hearing him upon the matter, revoke any permit granted to him under this ordinance, and after such revocation no further license shall be issued to him. All such permits and written notice of all such revocations shall be filed with the tax and license collector. For the purposes of this ordinance every person who has charge of or directs the operations of any outfit or apparatus or implements used in the business of spraying or fumigating trees, plants, vines or orchards, or who applies thereto or prepares, the chemicals used in such fumigation, whether on his own account or as agent of another, shall be deemed to be engaged in such business, and shall be required to have a license therefor. From and after the time when a county horticultural commissioner shall be appointed for the county of Los Angeles, under the provisions of chapter 118 of the Statutes of 1909, the powers and duties conferred by this ordinance upon the board of horticultural commissioners shall be vested in such horticultural commissioner.

SEC. 2. This ordinance shall take effect on the 1st day of July, 1909, and prior to the expiration of fifteen days from the passage hereof shall be published for at least one week in the "Los Angeles Daily Journal," a newspaper printed and published in the county of Los Angeles, State of California, together with the names of the members of the board of supervisors voting for and against the same.

## MADERA COUNTY.

Ordinance No. 62—An ordinance prohibiting any one within the county of Madera from purchasing or receiving, or causing to be purchased or received from any person, or corporation, or association outside of the county of Madera, State of California, excepting Fresno, Tulare and Kings counties, grapevines or grape cuttings.

*The board of supervisors of the county of Madera do ordain as follows:*

SECTION 1. It shall be unlawful for any one within the county of Madera, State of California, to purchase or receive, or cause to be purchased or received, from any place without the county of Madera, excepting Fresno, Kings, and Tulare counties, in said state, any grapevines or grape cuttings for the purpose of planting the same within the limits of said county of Madera.

SEC. 2. Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor.

SEC. 3. This ordinance shall take effect and be in force from and after the 26th day of February, 1900.

The foregoing ordinance is passed this 9th day of February, 1900.

(Signed) E. H. CHAPIN,  
Chairman of Board of Supervisors.

Ordinance No. 78—An ordinance prohibiting any one within the county of Madera from purchasing or receiving, or causing to be purchased or received grapevines, scions and buds from any person, or corporation, or association in certain districts of Fresno county, State of California.

*The board of supervisors of the county of Madera do ordain as follows:*

SECTION 1. It shall be unlawful for any person or persons within the county of Madera, California, to purchase or cause to be purchased, or to receive or have in his possession or upon his premises or under his control, any rooted or other grapevines, or cuttings of same, scions or buds, grown, cultivated or produced upon the following described lands, situate in the county of Fresno, State of California: All of section eight (8), east half (E.  $\frac{1}{2}$ ) of east half (E.  $\frac{1}{2}$ ) of section seven (7), east half (E.  $\frac{1}{2}$ ) of section five (5), east half (E.  $\frac{1}{2}$ ) of east half (E.  $\frac{1}{2}$ ) of west half (W.  $\frac{1}{2}$ ) of section five (5), all of section four (4), southwest quarter (S. W.  $\frac{1}{4}$ ) of southwest quarter (S. W.  $\frac{1}{4}$ ) of section five (5), all in township fourteen (14) south, range twenty (20) east, southeast quarter (S. E.  $\frac{1}{4}$ ) of section thirty-two (32), west half (W.  $\frac{1}{2}$ ) of west half (W.  $\frac{1}{2}$ ) of northwest quarter (N. W.  $\frac{1}{4}$ ) of section thirty-three (33), northeast quarter (N. E.  $\frac{1}{4}$ ) of northwest quarter (N. W.  $\frac{1}{4}$ ) of section thirty-three (33), northwest quarter (N. W.  $\frac{1}{4}$ ) of northeast quarter (N. E.  $\frac{1}{4}$ ) of section thirty-three (33), all in township thirteen (13) south of range twenty (20) east; said above described district of said county of Fresno having been heretofore declared to be infected with phylloxera parasite.

SEC. 2. Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor.



SEC. 3. This ordinance shall take effect and be in force from and after the 21st day of February, 1903.

The foregoing ordinance is passed this 5th day of February, 1903.

S. SLEDGE,

*Chairman of Board of Supervisors.*

NOTE.—“I consider Ordinance No. 78 of much value. I do not consider Ordinance No. 62 of any value.”

(Signed) GEO. MARCHBANK,  
*County Horticultural Commissioner.*

#### MENDOCINO COUNTY.

**Ordinance No. 131**—An ordinance for the protection of horticulture and to prevent the introduction into Mendocino county of insects or diseases or animals injurious to fruit, fruit trees, vines, bushes, vegetables, or berries or grapes.

*The board of supervisors of Mendocino county, State of California,  
do ordain as follows:*

SECTION 1. Any person, persons or corporation, who shall receive, bring or cause to be brought into the county of Mendocino, State of California, any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, rootlets, buds or fruitpits, or fruit, or vegetables, or berries, or grapes, or any case, box, package, crate or other article for the packing or shipping of fruit, shall within twenty-four hours after the arrival thereof notify the quarantine guardian of said county, or in case there is no quarantine guardian, then one member of the county board of horticulture, or some person commissioned by them, or either of them, of their arrival, and hold the same without unnecessarily moving the same, or placing such articles where they may be harmful, for the immediate inspection of such quarantine guardian or member of the county board of horticulture, or person duly commissioned by either of them to make such an inspection and examination. The said quarantine guardian, or any member of the county board of horticulture, or any person or persons commissioned by them to make such inspection, are hereby authorized and empowered to enter into any warehouse, or depot, or any other place where such articles are, for the purpose of making the investigation or examination herein provided for.

SEC. 2. When any of the articles herein named are found infested with injurious insects, or their eggs, larvæ, or pupæ, or infected with tree, plant or fruit disease or diseases, the same shall be disinfected at the expense of the owner, owners, or agent, and under the direction of such quarantine guardian or member of the county board of horticulture, or person commissioned by them for that purpose. After such disinfection it shall be detained in quarantine the necessary time to determine the result of such disinfection. If the disinfection has been so performed as to destroy all insects, or their eggs, and so as to eradicate all disease and prevent contagion, and in a manner satisfactory to said quarantine guardian or member of the county board of horticulture, or the person commissioned by them or either of them, then

said articles shall be released after the payment by said owner, owners or agent of the expense of disinfecting the same or eradicating the disease therefrom. In case any owner, owners or agent shall decline or refuse to disinfect any of such articles, or to eradicate the disease therefrom as herein directed, then said quarantine guardian or any member of the county board of horticulture, or person commissioned by them, shall cause the same to be disinfecting and the disease to be eradicated therefrom and said owner, owners or agent shall pay all the expenses thereof.

SEC. 3. If it shall be found that it is impossible to disinfect any of the articles herein enumerated, or to eradicate all disease therefrom so as to prevent contagion, then such article or articles are hereby declared to be a public nuisance, and then said quarantine guardian or member of the county board of horticulture, or person duly commissioned by them, shall have power and authority to destroy said article in case the owner, owners or agent shall refuse to do so.

SEC. 4. Any person who shall receive, bring or cause to be brought into this county any of the articles hereinabove enumerated and shall fail to notify said quarantine guardian of said county, or some member of the county board of horticulture, or person commissioned by them for such purpose, of the arrival of such articles within twenty-four hours after the arrival of the same shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed \$20.

SEC. 5. This ordinance shall go into effect and be in force on and after the 24th day of December, 1903, and prior to said time shall be published for one week in the "Republican Press," a newspaper of general circulation published in said county.

Passed by the board of supervisors of said county this 8th day of December, A. D. 1903.

LEONARD BARNARD,

*Chairman of said Board of Supervisors of the County  
of Mendocino, State of California.*

#### MERCED COUNTY.

**Ordinance No. 49—An ordinance to promote the horticultural interests of Merced county, California.**

*The board of supervisors of the county of Merced do ordain as follows:*

SECTION 1. No person or persons, corporation or corporations, either as owner, agent, factor, broker, servant or employee, shall bring for delivery, or cause to be brought for delivery, into Merced County, from any place or places without said county, any trees, plants, vines, shrubs, scions, cuttings or grafts, without giving written notice of their arrival at their destination within twenty-four hours thereafter to the horticultural commission of said county, or to the local inspector of the district into which the same are so brought; nor shall either of the persons or parties above warned remove or use, or cause the removal of the same from the place of their arrival at their destination until inspected as hereinafter provided.

SEC. 2. On receiving the notification mentioned in section one hereof, the horticultural commission or local inspector receiving the same shall cause within twenty-four hours thereafter to be carefully inspected the articles relative to which said notice was served. In default whereof said horticultural commission or local inspector receiving said notification hereinbefore mentioned shall be liable to any damages caused by its or his negligence.

SEC. 3. Any person or persons within the county of Merced who shall ship or bring, or cause to be shipped or brought into Merced County, California, any trees, vines, scions, cuttings, grafts, shrubs, or plants, shall have placed upon or securely attached to each box, package, or separate parcel of such articles, a distinct mark or label showing the name of the owner, agent or shipper, the name of the grower and the place where grown.

SEC. 4. It shall be the duty of the county horticultural commission to enforce the provisions of this ordinance, and for such purpose it may make such rules and regulations as in its judgment is necessary to make such ordinance effective.

SEC. 5. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not less than five days nor more than six months, or by a fine not less than five dollars nor more than five hundred dollars, or by both such fine and imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine be satisfied, specifying the extent of imprisonment, which must not exceed one day for every dollar of the fine.

J. A. MONTGOMERY,

*Chairman of the Board of Supervisors.*

#### **MONTEREY COUNTY.**

##### **Ordinance No. 308.**

*The board of supervisors of the county of Monterey do ordain as follows:*

SECTION 1. It is hereby declared to be unlawful for any person, or persons, firm, or corporation to bring, ship, carry or transport into the county of Monterey, any fruit, trees, scions, buds or roots infected with the disease known as "Pear Blight."

SEC. 2. It is hereby declared to be unlawful for any person, or persons, firm, or corporation to receive into the county of Monterey or have in their possession any fruit, trees, scions, buds, or roots infected with the disease known as "Pear Blight."

SEC. 3. It is hereby declared to be unlawful for any person, or persons, firm, or corporation to bring, ship, carry, or transport into the county of Monterey any trees, fruit, scions, buds, or roots of the apple, pear, quince, and locust, or any bees, hives or honey from the counties of Fresno, Kings, Tulare, Sacramento, Madera, Merced, Orange, Ventura, Santa Barbara, Kern, San Diego, Riverside, San Bernardino, and Los Angeles, in the State of California.



SEC. 4. It is hereby declared to be unlawful for any person, or persons, firm or corporation to receive into the county of Monterey from the counties of Fresno, Kings, Tulare, Sacramento, Madera, Merced, Orange, Ventura, Santa Barbara, Kern, San Diego, Riverside, San Bernardino, and Los Angeles, in the State of California, any trees, fruit, scions, buds, or roots of the apple, pear, quince, and locust, or any bees, hives, or honey.

SEC. 5. It is hereby made the duty of the county board of horticultural commissioners of the county of Monterey to institute proceedings against any and all persons violating any of the provisions of this ordinance.

SEC. 6. Any person or persons, firm or corporation, violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail of the county of Monterey for a period not exceeding six months, or by both such fine and imprisonment.

SEC. 7. This ordinance shall take effect and be in force on and after fifteen days after its passage, and shall be published in the manner and for the time prescribed by law, in the "Salinas Index."

Passed by the board of supervisors of the county of Monterey this 3d day of March, A. D. 1903.

Ayes—Supervisors T. J. Field, J. L. Mann, M. Hughes, J. E. Redmond, and W. H. H. Metz. Noes—None.

[SEAL]

T. J. FIELD,

*Chairman of the Board of Supervisors.*

Attest: J. D. KALAR,

*Clerk of the Board of Supervisors.*

#### ORANGE COUNTY.

Ordinance No. 17—An ordinance to promote the horticultural interests of the county of Orange, State of California.

*The board of supervisors of the county of Orange, California, do ordain as follows:*

SECTION 1. No person or persons, corporation or corporations, either as owner, agent, factor, broker, servant, or employee, shall bring or cause to be brought for any purpose into Orange County, California, from any district, county, state or foreign country, any trees, vines, shrubs, scions, cuttings, grafts, fruit, plants, flowers, vegetables, or peach pits, without giving notice of their arrival within twenty-four hours thereafter to a member of the county board of horticultural commissioners of said county, or to the local inspector of the district into which they are brought; nor plant, sell, expose for sale, give away, remove or cause to be removed any of the said articles, until they shall first have been inspected as hereinafter provided and disinfected to the satisfaction of the county board of horticultural commissioners of said Orange County or the local inspector thereof acting under the direction of said county board of horticultural commissioners.

SEC. 2. Section 2 of said ordinance is hereby amended to read as follows:

Section 2. On receiving the notification mentioned in section one hereof, the horticultural commissioner or local inspector securing the same shall, as soon thereafter as practicable, carefully inspect the articles relative to which said notice was served; and the fees for inspecting all articles enumerated in section one of this ordinance coming into the county and which are inspected by a horticultural commissioner or local inspector as herein provided shall be paid by the consignee of said articles so coming into this county, and the fees for inspecting all articles enumerated in section one of this ordinance, shipped out of the county, shall be paid by the shipper, which said fee shall be at the rate of three dollars per day for each and every day consumed in making such inspection.

SEC. 3. If upon a careful inspection by a horticultural commissioner or local inspector of said county of Orange any of the articles enumerated in section one of this ordinance shall be found infested with any live scale or insect pests, detrimental or injurious to fruit trees or the product thereof, or to any plant life, or if upon such inspection any of said articles shall be found to be infected or to have come from a district whose trees are infected with peach yellow, pear blight, or other disease, such infested or infected articles shall be removed from the limits of the said county within forty-eight hours thereafter, at the expense of the owner, agent, or shipper, or shall be destroyed. The owner, agent, or shipper shall have the right to elect as to the removal of said infested or infected articles from said county, or to have the same destroyed by order and under the direction of the county board of horticultural commissioners.

SEC. 4. Whenever the said board of horticultural commissioners shall deem it necessary for the safety of the horticultural interests of the said county, they may hold in quarantine for subsequent inspection or disinfection, or both, any of the articles mentioned in section one of this ordinance for such length of time as in their judgment is necessary.

SEC. 5. The said county board of horticultural commissioners are hereby authorized to require any or all of the articles enumerated in section one of this ordinance and brought into Orange County, to be disinfected, even though a careful inspection by a horticultural commissioner or local inspector of said county should show such articles to be apparently free from scale or inspect pests or plant disease.

SEC. 6. Any person or persons, corporation or corporations, who shall ship, or bring, or cause to be shipped or brought into Orange County, California, any of the articles mentioned in section one of this ordinance shall have placed upon, or securely attached to each box, package or separate parcel of such articles, a distinct mark or label, showing the name of the owner, agent or shipper, the place where grown and from whence shipped.

SEC. 7. It shall be the duty of the county horticultural commission to enforce the provisions of this ordinance and for such purpose it may

make such rules and regulations as in its judgment is necessary to make such ordinance effective.

SEC. 8. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not less than ten days and not more than one hundred days, or by a fine not less than ten dollars nor more than two hundred dollars, or by both such fine and imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine be satisfied, specifying the extent of imprisonment, which must not exceed one day for every two dollars of the fine.

SEC. 9. The ordinance No. 8 entitled "An ordinance with excerpts from the state laws," passed May 5, 1890, and all ordinances or parts of ordinances in conflict with the provisions of this ordinance, are hereby repealed. This ordinance shall take effect and be in force fifteen days after its passage, and within less than fifteen days after its passage, and before the expiration of said fifteen days, the same shall be published with the names of the members of the board of supervisors voting for or against the same, for at least one week in the "Santa Ana Standard," a newspaper printed and published in the city of Santa Ana in said county of Orange.

The above ordinance was passed at a regular meeting of the board of supervisors of Orange County, on the 7th day of December, 1891, by the following vote: Ayes—J. Yoch, J. W. Hawkins, L. Schorn, S. Armor, and W. N. Tedford. Noes—None.

J. YOCH,

*Chairman of the Board of Supervisors.*

**Ordinance No. 52—An ordinance to prevent the spreading of the Russian thistle, Scotch or Canadian thistle, Mexican cocklebur, Johnson grass, or evergreen millet.**

*The board of supervisors of the county of Orange do ordain as follows:*

SECTION 1. It shall be unlawful for any person owning property in the county of Orange, to permit the Russian thistle, Scotch or Canadian thistle, Johnson grass, evergreen millet, or Mexican cocklebur to mature or disseminate its seed on the lands so owned by such person. It shall be unlawful for any person to sow or disseminate or to permit the sowing or disseminating of any seed of the Russian thistle, Scotch or Canadian thistle, Johnson grass, or evergreen millet, or Mexican cocklebur upon any of the land owned by another. It shall be unlawful for any person to sell or in any way dispose of any seed of the Russian thistle, Scotch or Canadian thistle, Mexican cocklebur, Johnson grass or evergreen millet to another, whether in packing of goods or in grain or grass seeds or otherwise. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by fine of not more than five hundred dollars, or imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.



SEC. 2. This ordinance shall take effect from and after fifteen days from its passage and before the expiration of said fifteen days the same shall be published for at least one week in the "Weekly Blade," a newspaper of general circulation.

This ordinance was duly passed by the board of supervisors of said county of Orange, this 16th day of September, 1901, Supervisors F. P. Nickey, W. G. Potter, D. C. Pixley, and J. F. Snover voting for said ordinance. Absent, R. E. Larter, and no one voting against the same.

F. P. NICKEY,

*Chairman of the Board of Supervisors*

**Ordinance No. 71—An ordinance to provide for the destruction of the Florida white fly.**

WHEREAS, The Florida white fly has appeared in certain citrus trees and other forms of vegetation in the State of California, and is liable to be introduced into the county of Orange; and

WHEREAS, The said insect pest is a threatening danger to the citrus industry of the county of Orange; therefore,

*The board of supervisors of the county of Orange, State of California,  
do ordain as follows:*

SECTION 1. It shall be unlawful for any persons owning property in the county of Orange, State of California, to permit or allow the Florida white fly to be or remain upon the trees or vegetation or to be or remain upon the property owned by such person. It shall be unlawful for any person to import, bring in, disseminate or propagate the said Florida white fly upon any of the lands owned by himself or owned by another.

SEC. 2. Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.

SEC. 3. This ordinance shall take effect from and after fifteen days from its passage, and before the expiration of said fifteen days the same shall be published for at least one week in the "Weekly Blade," a newspaper of general circulation in the county of Orange.

Passed by the following vote: Ayes—Supervisors MacMillan, Smith, Moore, Linebarger, and Angle. Noes—None. Absent—None.

D. A. McMULLAN,

*Chairman of the Board of Supervisors  
of Orange County, California.*

NOTE.—You will notice that according to the ordinance on weeds that the offender is liable to a fine. I have never fought weeds under this, but used the state law, and the work has been done more by persuasion.

(Signed) ROY K. BISHOP,  
*County Horticultural Commissioner.*

## RIVERSIDE COUNTY.

Ordinance No. 5—Relating to horticultural interests of Riverside county.

*The board of supervisors of Riverside county, State of California, do ordain as follows:*

SECTION 1. No person or persons, either as owner, agent, servant or employee, shall bring or cause to be brought into Riverside County, State of California, from any place, district, county, state, or foreign country, any trees, vines or shrubs, scions, cuttings, buds, grafts, roots, plants, flowers or vegetables or fruit or fruit pits, without giving notice of their arrival at their destination, within twenty-four hours thereafter, to a member of the board of horticultural commissioners of said Riverside County or the local inspector of the district into which they are brought.

SEC. 2. No person or persons, either as owner, agent, servant or employee, shall keep in store, plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in section one (1) of this ordinance, or cause or permit the same to be stored, planted, sold, exposed for sale, given away or otherwise distributed whether said articles were brought into said county of Riverside, State of California, or were raised or grown in said county, if they are infested with any insect pest or their eggs, larvæ or pupæ or have any disease or fungus detrimental or injurious to vines or fruit trees or the products thereof, or to plant life; nor until they shall have first been inspected as herein before provided.

SEC. 3. Whenever any member of the county board of horticultural commissioners or any local inspector of said county of Riverside, State of California, shall receive notice of the arrival at their destination of any of the articles enumerated in section one (1) of this ordinance, or that any of such articles raised or grown in said Riverside County are ready for inspection, he shall (if within his jurisdiction) make a careful inspection of the same as promptly as possible, and if they, or any of them, shall be found infested with live scale or insect pests, or their eggs, larvæ or pupæ, or to have any disease or fungus detrimental or injurious to vines or fruit trees or the product thereof, or to plant life, such infested or diseased articles shall either be disinfected to the satisfaction of the board of horticultural commissioners of said Riverside County, or local inspector thereof acting under the direction of said board of commissioners, and be held in quarantine until free from said live scale, or insect pests, or their eggs, larvæ or pupæ, and from disease or fungus, or shall be destroyed under the direction of said board of commissioners or local inspector at the risk and expense of the owner, agent or shipper thereof. Whether such infested or diseased articles be disinfected or quarantined or be destroyed shall be wholly within the control and under the judgment of the board of horticultural commissioners of said county of Riverside, State of California, except in the case of infested fruit, and they shall so order as in their judgment may be deemed best for the horticultural interests of the county. The

owner, agent or shipper shall have the right to elect to remove infested fruit from the county within twenty-four (24) hours after having been notified in writing by a horticultural commissioner or a local inspector of said county that it is infested, or to have the same disinfected or destroyed as above provided; but he shall make his decision as soon as notified and inform the inspector whether or not he will remove the fruit.

SEC. 4. Whenever any member of the county board of horticultural commissioners of the county of Riverside, State of California, or a local inspector thereof acting under the direction of said commissioners shall deem it necessary for the safety of the horticultural interests of the county, he may hold in quarantine for information, subsequent inspection or disinfection and final order relative thereto, any of the articles enumerated in section one (1) of this ordinance whether grown or raised in this county or not, for such time as in his judgment may be deemed by him necessary, and such articles so placed in quarantine shall not be removed from the place of quarantine during the time specified by the commissioner or inspector for said quarantine.

SEC. 5. The county board of horticultural commissioners of the county of Riverside, State of California, is hereby authorized to require any or all articles enumerated in section one (1) of this ordinance brought into said Riverside County, or raised or grown in the said county, to be disinfected or quarantined, or both, whenever in their judgment it is best for the horticultural interests of said county, even though a careful inspection by a horticultural commissioner or a local inspector should show such article to be apparently free from disease, fungus, live scale or insect pests.

SEC. 6. Whenever any trees, vines, shrubs, scions, cuttings, buds, grafts, roots, plants or fruit or fruit pits brought into Riverside County, State of California, shall upon inspection by any member of the county board of horticultural commissioners be found to have been shipped or brought from any place, district, county, state or foreign country where peach yellows, peach rosette or phylloxera exist, or where there is good reason to believe that they or either of them exist, and if in the judgment of the commissioners danger may be justly apprehended of their introduction, or the introduction of either of them upon the articles so brought into said Riverside County, and if said articles are liable to be affected with the above named diseases, or infested with the above named insects, then all such articles are hereby declared a nuisance and shall be destroyed under the direction of said horticultural commissioners of said Riverside County at the expense of the owner, agent or shipper thereof. (Section 6 is amended in Ordinance No. 75, which follows this ordinance.)

SEC. 7. Every owner or person in charge or in possession of any orchard, nursery or other premises in the county of Riverside, State of California, on or in which is growing any tree, vine, shrub, plant, flower or vegetable infested with red, purple, yellow, cottony cushion,



pernicious or any other apparently dangerous scale, or the eggs, larvæ or pupæ thereof, or with phylloxera or other dangerous insects or dangerous disease or fungus shall when required by any member of the county board of horticultural commissioners of said Riverside County as in its discretion it may seem necessary, cut back, disinfect, fumigate or dig out and burn as directed by said horticultural commissioner, the said infested tree, vine, shrub, plant, flower or vegetable and also any other that may be in the vicinity of such infested article and liable to be infested thereby; and in event of said owner, agent or person in charge of said orchard, nursery or other premises neglecting or refusing to obey the order of the horticultural commissioners to cut back, disinfect, fumigate or dig out and burn the said tree, vine, shrub, plant, flower or vegetable within five days from the receipt of such order, then the horticultural commissioners may proceed to cut back, disinfect, fumigate or dig out and burn all such trees, vines, shrubs, plants, flowers or vegetables, the cost and expense of same to be paid by the owner of the orchard, nursery or other premises.

SEC. 8. Any person or persons who shall ship or bring or cause to be shipped or brought into the county of Riverside, State of California, any trees, vines, scions, cuttings, buds, grafts, shrubs, plants, flowers, vegetables, fruit or fruit pits, or roots for planting or grafting shall have placed upon or securely attached to each box, package or separate parcel of such articles a distinct mark or label showing the name of the grower, and of the place, district, county or state in the United States or in a foreign country where grown, and also such further marks or labels as the board of horticultural commissioners of said Riverside County may require to determine the liability of said articles to convey insect pests or diseases endangering the horticultural interests of the county.

SEC. 9. The owner or person in charge or in possession of any orchard, nursery or other premises in the county of Riverside, State of California, in or on which are growing any trees, plants, shrubs, vines, flowers or vegetables, shall not allow any person to bring into his orchard, nursery or other premises any box, basket, picking-sack (or leaves or other contents of the same), ladder or other article liable to convey injurious insects and which has been used in picking or in conveying fruit from any orchard, district or neighborhood where injurious insects are known to exist unless said article has been disinfected to the satisfaction of a horticultural commissioner of said Riverside County or the local inspector of the district into which said article is brought. Said owner or person in charge or in possession of said orchard, nursery or other premises shall report within twenty-four (24) hours thereafter to the local inspector in charge of that district, or to a horticultural commissioner of the county whenever he or any person in his employ, or on his premises shall find any red, purple, yellow, cottony cushion, pernicious or other dangerous scale on any fruit tree, plant, vine, flower or

vegetable on said premises; and shall keep the same a reasonable time safe from danger of distributing the pest for the inspection and attention of a horticultural commissioner or a local inspector of the said Riverside County. All persons picking fruit in said county of Riverside, State of California, shall report at once to the owner or person in charge or in possession of the premises on which the fruit is growing whenever they find any scale or other insect pest on the fruit they are picking. All packers of fruit and persons in charge of the packing of fruit and all dealers in fruit in said county of Riverside, State of California, shall report within twenty-four (24) hours thereafter to the local inspector of the district in which they are packing or doing business, or to a horticultural commissioner of said county, whenever they or any person in charge or in their employ shall find any fruit infested with any scale or other injurious insect pest; and shall keep the same a reasonable time safe from danger of distributing the pest for the inspection and attention of a horticultural commissioner or local inspector of said Riverside County.

SEC. 10. It shall be the duty of the board of horticultural commissioners of said county of Riverside, State of California, to enforce the provisions of this ordinance and for such purposes they may make such rules and regulations as in their judgment are necessary to make this ordinance effective. On their written request specifying what is needed, presented at any meeting of the board of supervisors of said county of Riverside, State of California, and duly certified to be according to their best judgment necessary for the protection and preservation of the horticultural interests of the said county of Riverside, the said board of supervisors shall provide at the expense of the said county and within a reasonable time suitable outfits for the fumigating of infested fruit trees in said county. Said outfits shall be placed in the care and charge of the board of horticultural commissioners of the said county, who shall receipt for the same and be responsible to the said county for the proper use and care of said fumigating outfits. The board of horticultural commissioners of the said county of Riverside, State of California, shall render to the board of supervisors of the said county, monthly on the first Monday of each and every month, a statement of all expenditures and receipts under the provisions of this section of this ordinance and shall deposit with the treasurer of the said county monthly all funds received for the use of the fumigating outfits and file with the monthly statement to the supervisors of said county the receipt of the treasurer of said county for the same.

SEC. 11. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in the county jail of said county of Riverside, State of California, not less than ten days and not more than one hundred days, or by fine of not less than ten dollars and not more than one hundred dollars, or by both such fine and imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned

until the fine be satisfied, specifying the extent of the imprisonment, which must not exceed one day for each dollar of the fine.

SEC. 12. This ordinance shall take effect and be in force on and after the 15th day of August, 1893.

**Ordinance No. 75—An ordinance amending ordinance No. 5, relating to horticultural interests of Riverside county.**

*The board of supervisors of Riverside county, State of California, do ordain as follows:*

SECTION 1. Section six of ordinance No. 5 is hereby amended to read as follows:

Section 6. Whenever any trees, vines, shrubs, scions, cuttings, roots, plants or fruit pits brought into Riverside County, State of California, shall upon inspection by the said commissioner be found to have been shipped from any place, district, state or foreign country where peach yellows, peach rosette, phylloxera, red spider of the orange (*Tetranychus mytilaspidis*), or white fly (*Aleyrodes citri*), purple scale, mealy bug, black peach aphid, or any other fruit pests, exist or where there is good reason to believe that they or either of them exist, and if in the judgment of the commissioners danger may be justly apprehended of their introduction, or of the introduction of either of them upon the articles so brought into said Riverside County, and if said articles are liable to be affected with the above named diseases or infested with the above named insects, then all such articles are hereby declared a nuisance and shall be destroyed under the direction of said horticultural commissioners of said Riverside County at the expense of owner, agent or shipper thereof.

SEC. 2. This ordinance shall be in force from and after the first day of March, 1904.

**Ordinance No. 80—(new series)—An ordinance regulating the granting of permits to persons and firms conducting the business of fumigating and spraying fruit trees and vines in the city of Riverside and providing a penalty for violation thereof.**

*The mayor and common council of the city of Riverside do ordain as follows:*

SECTION 1. Every person or firm engaging in, conducting or carrying on the business of spraying or fumigating fruit trees, plants, vines or orchards in the city of Riverside shall obtain a permit therefor from the common council, said permits to be granted only to persons who understand the proper conducting of such business.

SEC. 2. Permits shall be issued as granted for the term of three months at a quarterly fee of one dollar to be paid to the city clerk.

SEC. 3. Whenever any person or firm holding such permit causes to be done any spraying or fumigating in a negligent manner or uses therefor improper material or an insufficient quantity thereof or improperly constructed apparatus, said common council upon notice to such person or firm, of a time and place of hearing thereof, may revoke



the permit granted to such person or firm, if any of said charges are found to be true.

SEC. 4. For the purposes of this ordinance every person or firm either as owner, lessee or manager who has charge of or directs the operations of any outfit used for commercial purposes in spraying or fumigating trees, plants, vines or orchards, shall be deemed to be engaged in such business and be required to have a permit therefor. Any person or firm engaged in the business of eradicating insect pests as provided herein shall submit to the common council at any time when such demand may be made therefor, a correct statement of the formula and amount of chemicals used or to be used in fumigating, and ingredients and strength of materials used if sprayed, on any orchards, trees, or vines treated or about to be treated by such persons or firms.

SEC. 5. It shall be the duty of any person or firm owning or operating an outfit to report to the common council in writing, in duplicate, at the end of the month, all work of eradicating insect pests during the previous month; also number of trees treated and name of owner or owners of the same.

SEC. 6. Any person or firm engaged in spraying or fumigating under this ordinance who neglects to procure the permit provided for herein, or violates any provision of this ordinance is guilty of a misdemeanor.

SEC. 7. The provisions of this ordinance shall not be construed to require the owner of any orchard or vineyard to take out a permit in order to eradicate the pests upon his own premises with his own methods.

SEC. 8. Temporary permits may issue for the use of secret proprietary insecticides on trees or vines on designated places revocable at the pleasure of the common council.

SEC. 9. The city clerk shall certify to the adoption of this ordinance and cause the same to be published once in the "Riverside Daily Press," a newspaper of general circulation, published daily within the city of Riverside.

I hereby certify that the foregoing ordinance was adopted by the common council of the city of Riverside at its meeting held April 12th, 1910, by the following vote: Ayes—Councilmen Masters, Waite, Chase, Strickler and Hanna. Noes—None. Absent—Councilman Ford.

N. A. JACOBS,  
*City Clerk.*

Approved this 12th day of April, 1910.

S. C. EVANS,  
*Mayor of the City of Riverside.*

Ordinance No. 32 (new series)—Relating to horticultural interests of the city of Riverside and establishing quarantine regulations.

*The mayor and common council of the city of Riverside do ordain as follows:*

SECTION 1. No person or persons, either as owner, agent, servant or employe, shall bring or cause to be brought into the city of Riverside from any place, district, county, state or foreign country, any trees,

vines or shrubs, cuttings, buds, grafts, roots, plants, flowers or vegetables or fruit or fruit pits without giving notice of their arrival at their destination within twenty-four hours thereafter to the city horticultural commissioner, who shall be appointed by the mayor of the city of Riverside and shall hold office at his pleasure and serve without compensation.

SEC. 2. No person or persons, either as owner, agent, servant or employee, shall keep in store, plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in section one of this ordinance, or cause or permit the same to be stored, sold, exposed for sale, given away or otherwise distributed whether said articles were brought into said city, or were raised or grown therein, if they are infected with any insect pests or their eggs, larvæ or pupæ, or have any disease or fungus injurious to vines or fruit trees, or the product thereof, or to plant life; nor until they have been first inspected as hereinafter provided.

SEC. 3. Whenever the city horticultural commissioner shall receive notice of the arrival at their destination in said city of any articles enumerated in section one hereof, or that any of such articles raised or grown in said city are ready for inspection, he shall make a careful inspection of the same, and if they or any of them shall be found infected with live scale or insect pests or their eggs, larvæ or pupæ, or have any disease or fungus injurious to vines or fruit trees or the product thereof, or to plant life, such infested or diseased articles shall either be disinfected to the satisfaction of said commissioner, and be held in quarantine till free from said pests or diseases or shall be destroyed under the direction of said commissioner at the risk and expense of the owner, agent or shipper thereof. Whether such infested or diseased articles be disinfected, quarantined or destroyed shall be wholly within the control and under the judgment of the city horticultural commissioner, except in case of infested fruit, and he shall so order as in his judgment may be deemed best for the horticultural interests of the county. The owner, agent or shipper shall have the right to elect to remove infested fruit from the city within twenty-four hours after having been notified by the commissioner that it is infested, or to have the same disinfected or destroyed as above provided; but he shall make his decision as soon as notified and inform the commissioner whether or not he will remove the fruit.

SEC. 4. Whenever the horticultural commissioner of the city of Riverside shall deem it necessary for the safety of the horticultural interests of the city, he may hold in quarantine for information, subsequent inspection or disinfection, and final order relative thereto, any of the articles enumerated in section one hereof, whether grown or raised in this city or not, for such time as in his judgment may be necessary, and such articles so placed in quarantine shall not be removed from the place of quarantine during the time specified by the commissioner therefor.

SEC. 5. The city horticultural commissioner is hereby authorized to require any or all articles enumerated in section one of this ordinance

brought into the city or grown in said city to be disinfected or quarantined or both, whenever in his judgment it is best for the horticultural interests of said city, even though an inspection by the commissioner may show such articles to be apparently free from disease, fungus or insect pests.

SEC. 6. Every owner or person in charge or in possession of any orchard, nursery or other premises in the city of Riverside, or in which is growing any tree, vine, shrub, plant, or vegetable infested with red, purple, yellow, cottony cushion, or any other apparently dangerous scale or the eggs, larvæ, or pupæ thereof, or with phylloxera or other dangerous disease or insect or fungus, shall when required by the commissioner as in his discretion he may deem necessary, cut back, disinfect, fumigate, or dig out and burn the said infested trees, vines, plants, shrub or vegetable, and also any other that may be in the vicinity of such infested article and liable to be infested thereby, and in the event of said owner, agent or person in charge neglecting or refusing to obey the order of the commissioner within five days from the receipt of such order, then the commissioner may proceed to cut back, disinfect, fumigate, or dig out and burn all such trees, vines, shrubs, plants, or vegetables, the cost of same to be paid by the owner of the orchard, nursery or other premises.

SEC. 7. Any person or persons who shall ship or bring or cause to be shipped or brought into the city of Riverside any trees, vines, scions, cuttings, buds, grafts, shrubs, plants, flowers, vegetables, fruit or fruit pits or roots for planting or grafting shall have placed upon or securely attached to each box or separate parcel of such articles a distinct mark or label showing the name of the grower and of the place, district, county or state in this or any foreign country where grown and also such further marks or labels as the commissioner of said city may require to determine the liability of said articles to convey insect pests or diseases endangering the horticultural interests of the city.

SEC. 8. The owner or person in charge or in possession of any orchard, nursery or other premises in the city of Riverside in or on which are growing any trees, plants, shrubs, or vines or vegetables, shall not allow any person to bring into his orchard, nursery or other premises any box, basket, packing sack (or contents of the same) ladder or other article liable to convey injurious insects and which has been used in picking or conveying fruit from any orchard, district or neighborhood where injurious insects are known to exist unless said article has been disinfected to the satisfaction of the horticultural commissioner of the city. Said owner or person in charge, or in possession of said orchard, nursery or other premises, shall report within twenty-four hours thereafter to the commissioner whenever he or any person in his employ or on his premises shall find any red, purple, yellow, cottony cushion or other dangerous scale on any fruit tree, plant, vine, flower or vegetable on said premises; and shall keep the same a reasonable time safe from danger of distributing pest for the inspection of said commissioner.



SEC. 9. Whenever any trees, vines, shrubs, scions, cuttings, roots, plants, or fruit pits brought into the city of Riverside shall, upon inspection by the said commissioner, be found to have been shipped from any place, district, state or foreign country where peach yellows, peach rosette, phylloxera, red spider of the orange (*Tetranychus mytaspidis*), or white fly (*Alerodes citri*), purple scale, mealy bug, black peach aphid, or any other fruit pests, exists, or where there is good reason to believe that they or any of them exist; and if, in the judgment of the commissioner, danger may be justly apprehended of their introduction or of any of them by the articles so brought into the said city, and if said articles are liable to be affected with the above named diseases or infected with the above named insects, then all such articles are hereby declared a nuisance, and shall be destroyed under the direction of said commissioner at the expense of the owner or shipper thereof.

SEC. 10. Any violation of any of the provisions of this ordinance shall constitute a misdemeanor and every person found guilty of violating any of said provisions shall, upon conviction thereof, be fined in a sum of not more than three hundred dollars or by imprisonment in the city jail of said city for not more than three months, or be punished by both such fine and imprisonment.

SEC. 11. The city clerk shall certify to the adoption of this ordinance and cause the same to be published once in the "Riverside Daily Press," a newspaper of general circulation, published daily within the city of Riverside.

I hereby certify that the foregoing ordinance was adopted by the common council of the city of Riverside at its meeting held April 26th, 1910, by the following vote: Ayes—Councilmen Ford, Masters, Waite, Chase, Strickler and Hanna.

N. A. JACOBS,  
*City Clerk.*

Approved this 26th day of April, 1910.

S. C. EVANS,  
*Mayor of the City of Riverside.*

Ordinance No. 96—An ordinance regulating the granting of permits to persons and firms conducting the business of fumigating and spraying fruit trees and vines in Riverside county and providing a penalty for violation thereof.

*The board of supervisors of the county of Riverside, State of California, do ordain as follows:*

SECTION 1. Every person or firm engaging in, conducting or carrying on the business of spraying or fumigating fruit trees, plants, vines or orchards in the county of Riverside, shall obtain a permit therefor from the board of supervisors on the recommendation of the horticultural commissioner. Said commissioner shall, upon publication being made for any such permit, examine the apparatus to be used by the applicant in such business, and recommend such permit if he finds that the applicant understands the proper conduct of such business. His action in refusing a recommendation may be reviewed by the board of

supervisors, and if the board is satisfied from the evidence that the applicant is entitled to a permit the same may be granted.

SEC. 2. Permit shall be issued as ordered for the term of three months at a quarterly fee of one dollar, paid to the clerk of the board of supervisors.

SEC. 3. Whenever any person or firm holding such permit causes to be done any spraying or fumigating in a negligent manner, or uses therefor improper materials or an insufficient quantity thereof, or improperly constructed apparatus, said horticultural commissioner may, upon notice to such person or firm, and after a hearing on the matter, recommend that the board of supervisors revoke the permit granted to such person or firm, giving reasons for the recommendation; and the board shall grant the holder a hearing before taking action on the recommendation of the horticultural commissioner.

SEC. 4. For the purpose of this ordinance every person or firm, either as owner, lessee or manager, who has charge of or directs the operations of any outfit used for commercial purposes in spraying or fumigating trees, plants, vines or orchards, shall be deemed to be engaged in such business, and be required to have a permit therefor. Any person or firm engaged in the work of eradicating insect pests by fumigation, spraying or other methods, shall submit to the horticultural commissioner, or his representative, at any time when such demand may be made, a correct statement of the amount of chemicals used, or to be used, in fumigating, or ingredients and strength of materials used if sprayed, or any orchards, trees or vines, treated or to be treated by such person or firm.

SEC. 5. It shall be the duty of any person or firm owning or operating an outfit to report to the horticultural commissioner at the end of the month all work of eradicating insect pests during the current month, also number of trees treated and name of owner or owners of same.

SEC. 6. Any person or firm engaged in fumigating or spraying under this ordinance who neglects to procure from the clerk of the board of supervisors the permit provided for, or refuses to comply with the above named requirements of the horticultural commissioner or to make the monthly reports herein provided for, or refuses or neglects to comply with the provisions of section 3 hereof, is guilty of a misdemeanor, and punishable by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days.

SEC. 7. The provisions of this ordinance shall not be construed to require the owner of any orchard to take out a license in order to eradicate the pests upon his own premises with his own apparatus.

SEC. 8. The horticultural commissioner may issue temporary permits for the use of secret or proprietary insecticides on trees, orchards or vines on designated places, revocable at the pleasure of the commissioner.

SEC. 9. This ordinance shall take effect and be in force from and

after the 1st day of January, 1910, and publication according to law, for at least one week previous to the said date.

JOHN SHAVER,  
*Chairman of the Board of Supervisors,  
Riverside County, California.*

[SEAL.]

Attest: A. B. PILCH,

*County Clerk and ex officio Clerk of the Board of Supervisors,  
Riverside County, State of California.*

#### SAN BERNARDINO COUNTY.

Ordinance No. 122—An ordinance to promote the horticultural interests of San Bernardino county, California, and providing for the inspection and destruction of insect pests, and providing restrictions upon the importation of cuttings, etc.

*The board of supervisors of San Bernardino county, State of California,  
do ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant or other employee, shall bring for delivery or cause to be brought for delivery, into the county of San Bernardino, from any other place or places without said county, or from one district to another district within said county, any trees, plants, vines, fruit, fruit pits, shrubs, scions, cuttings, buds or grafts, boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts or fruit without giving written notice of their arrival at their destination within twenty-four hours thereafter, and prior to their removal from said point of destination, to the horticultural commissioners of said county, or to the local inspector of the district into which the same are so brought; nor shall either of the persons, parties, or corporations above named remove the same from the place of their destination until inspected as herein provided. (Amended by Ordinance No. 128, following.)

SEC. 2. No person or persons either as owner, agent, servant or employee, shall keep in store, plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in section one (1) of this ordinance, or cause or permit the same to be stored, planted, sold, exposed for sale, given away or otherwise distributed, whether said articles were brought into said county of San Bernardino, State of California, or were raised or grown in said county, if they are infested with any insect pest or their eggs, larvæ or pupæ, or have any disease or fungus detrimental or injurious to vines or fruit trees or the product thereof, or to plant life; nor until they shall have first been inspected as provided in section four (4) of this ordinance.

SEC. 3. Any person or persons, corporation or corporations mentioned in section one (1) of this ordinance who shall ship or bring or cause to be brought or shipped into San Bernardino County, California, any trees, cuttings, buds, grafts, shrubs or plants, shall have placed



upon or securely attached to each package, box or separate parcel of such articles a distinct mark or label, showing the name of the owner, agent or shipper, the name of the grower and the place where grown.

SEC. 4. Upon receiving the notification mentioned in section one (1) hereof, or any other information of such importation, the horticultural commission, or the local inspector receiving the same, shall, as soon thereafter as practical, carefully inspect the article, reference to which notice was served or information received. If it appears that the importation is of citrus trees, fruits, shrubs, scions, cuttings, grafts or buds, and that the same were grown in the states of Louisiana, Florida, Yuba County, California, or any other place infested with the white fly (*Aleyrodes citri*), red spider (*Tetranychus mytilaspidis*), red scale (*Aspidiotus aurantii*), yellow scale (*Aspidiotus citrinus*), purple scale (*Mytilaspidis citricola*) or any other injurious insects, not prevalent in that locality, it shall be the duty of the horticultural commission to at once cause the same to be disinfected by a thorough application of kerosene emulsion. After such application the tree, shrub, scion, cutting, graft or buds shall remain in the custody of the importer in a place thoroughly isolated from any other citrus trees, fruits, shrubs, scions, cuttings, grafts or buds, and such place to be so arranged that if the same are infested with the white fly, red spider, red scale, yellow scale, or purple scale, said insect could not escape therefrom to other trees or plants in the neighborhood; and if not so isolated said plants are hereby declared to be a public nuisance, and it shall be the duty of the horticultural commission to cause the same to be destroyed. Two weeks after the first application as herein provided the same shall be again thoroughly treated to a kerosene emulsion, and again at the end of another period of two weeks the same shall be treated for the third time with kerosene emulsion. Thereafter such importation shall remain in the custody of the importer and without being set out in orchard form, thoroughly isolated as aforesaid, for a period of at least one year, and the same shall be inspected as often during that period as in the judgment of the horticultural commission may be deemed necessary; and if upon such inspection it appears that the same are in fact infested with white fly, red spider, red scale, yellow scale or purple scale, in any stage of existence, or with their eggs, the entire consignment shall be at once destroyed by the horticultural commission. If it appears that the importation is of boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts, or fruit from any place infested with the white fly, red spider, red scale, yellow scale or purple scale, or if it shall appear that the transportation of the same is from one district which is infected with the red spider, red scale, yellow scale or purple scale, or any other injurious insect within said county, to another district within said county, then it shall be the duty of the horticultural commission to cause the same to be disinfected by a thorough fumigation with cyanide of potassium.

SEC. 5. In addition to the foregoing treatment for the eradication of the insect pests known as the white fly, red spider, red scale, yellow scale or purple scale, in any stage of existence, or their eggs, the horticultural commission may require any additional treatment or disinfection which, in their judgment, would more effectively disinfect the same; and shall require the wrappings in which said trees were imported to be burned or thoroughly disinfected.

SEC. 6. If it shall appear that the importation, notice of which is required to be given by section one (1) hereof, consists of grapevines, scions, rootings, grafts, buds or cuttings, from any grapevine grown in or shipped from any county in the State of California north of the north line of San Luis Obispo, Kern and San Bernardino counties, or from any district infected with phylloxera of the vine, it shall be the duty of the horticultural commissioners to cause said cuttings, vines, rootlings, grafts, scions or buds to be exposed for at least twenty-four hours to a saturated atmosphere of carbon bisulphide. Thereafter the said vines, rootlings, cuttings, grafts, scions or buds shall remain in the custody of the importer for such length of time as may in the judgment of the horticultural commission be necessary to determine whether or not the same are infected with phylloxera; not, however, less than six months. If at any time it shall appear upon inspection of such importation that the same is infected with phylloxera, the entire consignment shall be destroyed.

SEC. 7. It shall be unlawful to sell or plant in orchard form, or to attach to any growing trees, scions or buds, from the states of Florida or Louisiana, or Yuba County, California, without first obtaining from the board of horticultural commissioners a written permit to such sale or use, stating that the same have been inspected and treated as hereinbefore provided, and that in the judgment of the said horticultural commission, the same are free from insect pests.

SEC. 8. It shall be unlawful to sell any vines, cuttings, rootlings, grafts, scions or buds imported from the district north of the north line of Kern, San Luis Obispo and San Bernardino counties in the State of California, except upon the written permit of the board of horticultural commissioners, stating that said plants have been inspected and treated as hereinbefore provided, and that in their judgment the same are free from insect pests.

SEC. 9. The horticultural commission shall adopt such rules in relation to application for permits, provided for in the two preceding sections as in their judgment may be necessary.

SEC. 10. Any person importing for the purpose of sale any citrus plant, tree, vine, cutting, rooting, graft or bud from the states of Florida or Louisiana, Yuba County, California, or from any state or district or county infected with the white fly, red spider, red scale, yellow scale or purple scale; and any person importing for the purpose of sale any vine, cutting, citrus trees, plant, rootling, graft or bud from any place herein designated as infected with phylloxera or importing

said vine or citrus plants from any other point hereafter designated on the minutes of the board of horticultural commissioners of San Bernardino County, as a point infected with the white fly or phylloxera, red spider, red scale, yellow scale or purple scale respectively, shall pay a license of fifty dollars per quarter, which license shall be in the usual form of county licenses and issued by the tax collector and shall state the place or places for which the holder thereof is licensed and authorized to import as aforesaid. Applications for such licenses shall be made to the said board of horticultural commissioners, and shall be accompanied by a good and sufficient bond with two sureties in the penal sum of five thousand dollars for the faithful compliance with the terms of this ordinance; and when approved by them, the tax collector shall be by them authorized to issue said license, but not before.

SEC. 11. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 12. This ordinance shall take effect and be in force fifteen days from and after its passage.

SEC. 13. Ordinance number 104 entitled "An ordinance to promote the horticultural interests of San Bernardino County, California, and providing for the inspection and destruction of insect pests, and providing restrictions upon the importation of cuttings, etc.," and all other ordinances in conflict with this ordinance, are hereby repealed.

The foregoing ordinance, containing thirteen sections, was adopted by the board of supervisors of San Bernardino County, California, at their regular meeting held Tuesday, the 2d day of July, 1907.

Present—Supervisors West, Reid, Nelson, Pine, and Glover.

This ordinance was considered section by section and each section adopted separately, and afterwards this ordinance was adopted as a whole. Each section of, and this ordinance as a whole, was adopted by the unanimous votes of Supervisors J. H. West, E. W. Reid, A. P. Nelson, Samuel Pine, and J. B. Glover.

Witness our hands and the seal of the board of supervisors of San Bernardino County, California, this 2d day of July, 1907.

E. W. REID,

*Chairman of the Board of Supervisors.*

**Ordinance No. 127—An ordinance for the protection of the horticultural interests of the county of San Bernardino against the spread of insect pests.**

*The board of supervisors of the county of San Bernardino, State of California, do ordain as follows:*

SECTION 1. The horticultural commission of the county of San Bernardino is hereby authorized and empowered to designate as a protected district, and to define the boundaries thereof of any district in said county, adjudged by said commission to be in need of protection against any injurious insect or insects. In designating and declaring any such protected district, the horticultural commission shall publish notice



thereof in a daily newspaper for one week, or a weekly newspaper for three weeks, published in the county of San Bernardino; such notice shall give the name of the protected district and describe its boundary.

SEC. 2. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant, or other employee, shall bring for use or delivery, or cause to be brought for use or delivery, from any place within the county of San Bernardino into any protected district duly designated and declared by the horticultural commission of said county to be a protected district, except to such places for inspection as may be granted by written permits by said commission, any tree, plant, vine, fruit, fruit pit, shrub, scion, cutting, bud, leaf, or graft, or any box, ladder, prop, picking sack, fruit clipper, plow, cultivator, harrow, marker, furrowing tool, harness, or other tool, implement or appliance whatsoever, that has been used in any citrus grove outside such protected district, either in cultivating the soil, irrigating or preparing land for irrigation, picking or transporting citrus fruit, or handling or transporting any form of vegetable growth or product within or from any such citrus grove or nursery, without first obtaining permission in writing from the horticultural commission of said county.

SEC. 3. Every person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 4. This ordinance shall be in force and effect fifteen days from and after its passage.

The foregoing ordinance, containing four sections, was adopted by the board of supervisors of San Bernardino county, California, at their regular meeting held on the 8th day of December, 1908.

Present—Supervisors Reid, Nelson, Pine, and Glover. Absent—West.

This ordinance was considered section by section and each section adopted separately, and afterwards this ordinance was adopted as a whole. Each section of, and this ordinance as a whole, was adopted by the unanimous vote of Supervisors E. W. Reid, A. P. Nelson, Samuel Pine, and J. B. Glover.

Witness our hands and seal of the board of supervisors of San Bernardino county, State of California, this 8th day of December, 1908.

E. W. REID,

*Chairman of the Board of Supervisors of the County  
of San Bernardino, State of California.*

[SEAL.]

Attest: CHARLES POST,

*County Clerk and ex officio Clerk  
of the Board of Supervisors.*

By R. M. ARMSTRONG,

*Deputy.*

Ordinance No. 128—An ordinance amending section 1 of ordinance No. 122 passed July 22, 1907, concerning the horticultural interests of the county of San Bernardino, State of California.

*The board of supervisors of the county of San Bernardino, State of California, do ordain as follows:*

SECTION 1. That section 1 of ordinance 122 of the county of San Bernardino, entitled "An ordinance to promote the horticultural interest of San Bernardino county, California, and providing for the inspection and distribution of insect pests, and providing restrictions upon the importation of cuttings, etc.," passed by the board of supervisors of said county, July 2, 1907, be and the same is hereby amended to read as follows:

SECTION 1. No person, or persons, firm or corporation, either as missioner shall be appointed under the provisions of chapter 118 of use or delivery, or cause to be brought for use or delivery, into the county of San Bernardino, from any other place or places, outside of said county, or from one district to another district within said county, except to such places for inspection as may be designated by the horticultural commission of said county as places of inspection, any trees, plants, vines, fruit, fruit pits, shrubs, scions, cuttings, buds, or grafts, boxes, ladders, props, picking sacks, tools, or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts, or fruit, without first obtaining written permission of said horticultural commission of said county. None of the above named objects, things or articles, when brought from without the county of San Bernardino into the county of San Bernardino or from one district to another district within said county, to any place of inspection designated by said horticultural commission as a place of inspection, as above provided, shall be removed from said place of inspection until inspected and released as hereinafter provided. And no person or persons, firms or corporation, either as owner, agent, factor, broker, servant, or other employee, shall remove or cause to be removed, any of the above named objects, things, or articles from any nursery, or nursery yard, or place used as a nursery in the county of San Bernardino, to any other place in said county, without first obtaining certificate of inspection from said horticultural commission, showing the same to be free of insect pests. No person, or persons, firm or corporation, either as owner, agent, factor, broker, servant or other employee, shall remove from any packing house, or from any other place used for the packing and shipment of fruits, any picking boxes which have previously been used in any district in the county of San Bernardino infected with insect pests, without first fumigating, or causing to be fumigated, said picking boxes with hydrocyanic acid gas.

SEC. 2. This ordinance shall take effect and be in force fifteen days from and after its passage.

The foregoing ordinance, containing two sections, was adopted by the board of supervisors; of San Bernardino County, State of California, at a regular meeting of said board held on the 14th day of December,

1908. Present—Supervisors Reid, Nelson, Pine, and West; Supervisor Glover being absent.

This ordinance was considered section by section and each section adopted separately, and afterward this ordinance adopted as a whole. Each section of, and this ordinance as a whole, was adopted by the unanimous vote of Supervisors E. W. Reid, A. P. Nelson, Samuel Pine, and J. H. West, Supervisor Glover being absent.

Witness our hands and seal of the board of supervisors of San Bernardino county, California, this 14th day of December, 1908.

E. W. REID,

*Chairman of the Board of Supervisors of  
San Bernardino County, California.*

[SEAL.]

Attest: CHARLES POST,

*County Clerk and ex officio Clerk,  
of the Board of Supervisors.*

By R. M. ARMSTRONG,

*Deputy.*

**Ordinance No. 136—An ordinance regulating and licensing the business of fumigating and spraying fruit and nut trees and vines.**

*The board of supervisors of the county of San Bernardino, State of California, do ordain as follows:*

SECTION 1. Every person, firm, or corporation who engages in, conducts or carries on the business of spraying or fumigating trees, plants, vines or orchards, shall pay to the county tax collector a license fee of three dollars per quarter; *provided*, no such license shall be issued except upon the order of the board of supervisors of said county. Every person, firm or corporation desiring a license under the terms of this ordinance shall first make written application to the board of supervisors, whereupon said board shall instruct the horticultural commission, or horticultural commissioner, when a county horticultural commissioner shall be appointed under the provisions of chapter 118 of the statutes of the State of California, 1909, to examine the implements and apparatus to be used by said applicant in such business and report its or his findings to said board at its next regular meeting; *provided*, that said report and findings of said commission or commissioner shall be advisory only to said board of supervisors. Said board of supervisors shall order a license issued only after it finds from said report of said commission or commissioner or from any other evidence submitted to it that the applicant understands the proper conduct of such business, and that the said implements and apparatus are properly constructed and suitable for such business.

SEC. 2. Whenever any person, firm or corporation holding such license does or causes to be done any spraying or fumigating in a negligent or unskillful manner or uses therefor improper materials or insufficient quantity thereof, or improper apparatus or implements, said board of supervisors may, upon ten days' notice to such person, and after a hearing upon the matter, revoke and cancel any license granted to him under the terms of this ordinance. All such revocations shall be filed with the tax collector, and no firm, person or corporation whose



license has been revoked or to whom a license has been refused shall be granted a license within six months after the order of the board revoking the license or refusing to permit a license to issue.

SEC. 3. For the purposes of this ordinance every person, firm or corporation, either as owner, lessee or manager, who has charge of or directs the operation of any outfit, used in spraying or fumigating trees, plants, vines or orchards on his own account, or as agent of another, shall be deemed to be engaged in such business and shall be required to have a license therefor. Any person engaged in the business of fumigating or spraying trees, plants, vines or orchards, or engaged in the work of eradicating insect pests by fumigation, spraying or other methods shall submit to the horticultural commission or commissioner, or their or his representatives, at any time, on demand, a correct statement of the chemicals used, or to be used, if fumigated, or ingredients, or strength of materials used, if sprayed, and of any orchard, trees or vines treated or to be treated.

SEC. 4. It shall be the duty of any person, firm or corporation owning or operating an outfit for fumigating or spraying trees, plants, vines or orchards, to report to the board of horticultural commissioners, or county horticultural commissioner, at the end of each and every month, all work of fumigating, spraying and eradication of insect pests during the current month, giving amount of chemicals used, if fumigated, and material and strength of same, if sprayed; also number of trees, plants and vines treated and the name of owner or owners of the same.

SEC. 5. Every person, firm or corporation engaged in the business of fumigating or spraying trees, plants, vines or orchards under this ordinance, who neglects or refuses to procure from the county tax collector a license therefor, as provided herein, or who violates any of the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five hundred (\$500.00) dollars, or by both such imprisonment and fine.

SEC. 6. This ordinance shall take effect and be in force on and after the 10th day of September, 1909.

The foregoing ordinance containing six sections was adopted by the board of supervisors of San Bernardino county, California, at a regular meeting held on the 23d day of August, 1909. Supervisors present — E. W. Reid, E. V. Horton, J. B. Glover, Samuel Pine, and J. H. West. This ordinance was first considered section by section and each section adopted separately, and afterwards this ordinance was considered and adopted as a whole. Sections 1, 2, 3, 4, 5, and 6 of this ordinance, and this ordinance as a whole, was adopted by the unanimous vote of Supervisors E. W. Reid, S. V. Horton, J. B. Glover, Samuel Pine, and J. H. West.

Witness our hands and seal of the board of supervisors of San Bernardino County, California, this 23d day of August, 1909.

E. W. REID,

*Chairman of the Board of Supervisors, County  
of San Bernardino, State of California.*

## SAN DIEGO COUNTY.

Ordinance No. 130—An ordinance to promote the horticultural interests of San Diego county, California, and providing for the inspection and destruction of insect pests, and providing restrictions upon the importation of cuttings, etc.

*The board of supervisors of San Diego county, State of California, do ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant, or other employee, shall bring for delivery or cause to be brought for delivery into the county of San Diego, from any other place or places, without said county of San Diego, or from one district to another district within said county, any trees, plants, vines, shrubs, scions, cuttings, buds or grafts, boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts or fruit, without giving written notice of their arrival at their destination within twenty-four hours thereafter, and prior to their removal from said point of destination, to the horticultural commissioners of said county, or to the local inspector of the district into which the same are so brought; nor shall either the persons, parties or corporations above named remove the same from the place of their destination until inspected as hereinafter provided.

SEC. 2. Any person or persons, corporation or corporations, mentioned in section one of this ordinance, who shall ship or bring, or cause to be brought or shipped into San Diego County, California, any trees, cuttings, buds, grafts, shrubs, or plants, shall have placed upon or securely attached to each package, box, or separate parcel of such articles a distinct mark or label showing the name of the owner, agent or shipper, the name of the grower, and the place where grown.

SEC. 3. Upon receiving the notification mentioned in section one hereof, or any other information, of such importation, the horticultural commission, or the local inspector receiving the same, shall, as soon thereafter as practicable, carefully inspect the article, reference to which notice was served or information received. If it appears that the importation is of citrus trees, shrubs, scions, cuttings, grafts or buds, and that the same were grown in the states of Louisiana, Florida, or any other place infested with the white fly (*Aleyrodes citri*), red spider (*Tetranychus mytilaspidis*), red scale (*Aspidiotus aurantii*), yellow scale (*Aspidiotus citrinus*), purple scale (*Mytilaspis citricola*), or any other injurious insects, not prevalent in that locality, it shall be the duty of the horticultural commission to at once cause the same to be disinfected by a thorough application of kerosene emulsion. After such application the tree, shrub, scion, cutting, graft or buds, shall remain in the custody of the importer in a place thoroughly isolated from any other citrus trees, shrubs, scions, cuttings, grafts, or buds, and such place to be so arranged that if the same are infested with the white fly,



red spider, red scale, yellow scale, or purple scale, said insect could not escape therefrom to other trees or plants in the neighborhood, and if not so isolated said plants are hereby declared to be a public nuisance, and it shall be the duty of the horticultural commission to cause the same to be destroyed. Two weeks after the first application as herein provided the same shall be again thoroughly treated to a kerosene emulsion, and again at the end of another period of two weeks the same shall be treated for the third time with kerosene emulsion. Thereafter such importation shall remain in the custody of the importer, and without being set out in orchard form, thoroughly isolated as aforesaid, for a period of at least one year, and the same shall be inspected as often during that period as in the judgment of the horticultural commission may be deemed necessary; and if upon any such inspection it appears that the same are in fact infested with white fly, red spider, red scale, yellow scale or purple scale in any stage of existence, or with their eggs, the entire consignment shall be at once destroyed by the horticultural commission. If it appears that the importation is of boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts or fruit, from any place infested with the white fly, red spider, red scale, yellow scale or purple scale; or if it shall appear that the transportation of the same is from one district which is infested with the red spider, red scale, yellow scale or purple scale, or any other injurious insect within said county to another district within said county, then it shall be the duty of the horticultural commission to cause the same to be disinfected by a thorough fumigation with cyanide of potassium.

SEC. 4. In addition to the foregoing treatment for the eradication of the insect pests known as the white fly, red spider, red scale, yellow scale or purple scale, in any stage of existence, or their eggs, the horticultural commission may require any additional treatment or disinfection which, in their judgment, would more effectively disinfect the same; and shall require the wrappings in which said trees were imported to be burned or thoroughly disinfected.

SEC. 5. If it shall appear that the importation, notice of which is required to be given by section one (1) hereof, consists of grapevines, scions, rootings, grafts, buds or cuttings, from any grapevine grown in or shipped from any county in the State of California north of the north line of San Luis Obispo, Kern, and San Bernardino counties, or from any district infested with phylloxera of the vines, it shall be the duty of the horticultural commissioners to cause said cuttings, vines, rootings, grafts, scions or buds to be exposed for at least twenty-four hours to a saturated atmosphere of carbon bisulphide. Thereafter the said vines, rootlings, cuttings, grafts, scions or buds shall remain in the custody of the importer for such length of time as may in the judgment of the horticultural commission be necessary to determine whether or not the same are infested with phylloxera; not, however, less than six months. If at any time it shall appear upon inspection of such im-



portation that the same is infested with phylloxera, the entire consignment shall be destroyed.

SEC. 6. It shall be unlawful to sell or plant in orchard form, or to attach to any growing trees in the county of San Diego, any citrus cuttings, grafts, trees, scions or buds, from the states of Florida or Louisiana without first obtaining from the board of horticultural commissioners a written permit for such sale or use, stating that the same have been inspected and treated as hereinbefore provided; and that in the judgment of the said horticultural commission the same are free from insect pests.

SEC. 7. It shall be unlawful to sell any vines, cuttings, rootlings, grafts, scions or buds imported from the district north of the north line of Kern, San Luis Obispo, and San Bernardino counties, in the State of California, except upon the written permit of the board of horticultural commissioners, stating that said plants have been inspected and treated as hereinbefore provided, and that in their judgment the same are free from insect pests.

SEC. 8. The horticultural commission shall adopt such rules in relation to application for permits provided for in the two preceding sections as in their judgment may be necessary.

SEC. 9. Every person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 10. This ordinance shall take effect and be in force on and after the 25th day of February, 1905, and a copy thereof shall be printed and published in the "San Diegan Sun," a newspaper printed and published in said San Diego County, for two weeks before said date.

Passed, approved and adopted this 9th day of February, 1905.

WM. JUSTICE,

*Chairman of the Board of Supervisors  
of San Diego County, California.*

**Ordinance No. 186—An ordinance amending Ordinance No. 130 of the ordinances of the county of San Diego, and adding a new section thereto to be known as section 7a "making it unlawful for any person to sell or expose for sale any fruit or vegetables infested with scale or other insect injurious to trees, plants, vines, fruits or vegetables."**

*The board of supervisors of San Diego county, State of California, do  
ordain as follows:*

SECTION 7a. It shall be unlawful for any person, either as owner, agent or employee, to sell, or expose for sale, to keep or have for sale, or to give away any fruit or vegetable that is infested with any scale or other insect injurious to trees, plants, vines, fruits or vegetables, or that is infested with the egg, larva or pupa of such insect, or that is wholly or partially decayed, or that has been frost bitten, or that is affected in any manner so as to be unwholesome or unfit for food.

SEC. 7b. This ordinance shall take effect and be in force at the

expiration of fifteen days from and after its passage, and before the expiration of the said fifteen days the same shall be published with the names of the members voting for and against the same, for at least one week in the "San Diego Union and Daily Bee," a newspaper of general circulation published in the said county of San Diego.

SEC. 7c. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed, approved and adopted this 13th day of October, A. D. 1910.

T. J. FISHER,

*Chairman of the Board of Supervisors  
of San Diego County, California.*

#### SAN JOAQUIN COUNTY.

##### Ordinance No. 333—Concerning horticultural interests.

*The board of supervisors of the county of San Joaquin do ordain as follows:*

SECTION 1. No person or persons, either as owner, agent, servant or employee, shall bring or cause to be brought into San Joaquin County, California, from any foreign country, district, county or state, any trees, vines, scions, cuttings, grafts, fruits, plants or fruit pits without giving notice within twenty-four hours after their arrival at their destination to the county commissioner of horticulture of said county, or to the local inspector of the district into which they are brought; nor plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in this section, or cause the same to be done, until they shall first have been inspected as hereinafter provided and disinfected to the satisfaction of the county commissioner of horticulture of said San Joaquin County, or the local inspector thereof, acting under the direction of said county commissioner of horticulture. Upon receiving the notification mentioned in this section, or any other information of such importation, the horticultural commissioner, or the local inspector receiving the same, shall, as soon thereafter as practical, carefully inspect the article, reference to which notice was served or information received.

SEC. 2. If upon a careful inspection by the county commissioner of horticulture, or a local inspector of said county of San Joaquin, any of the articles enumerated in section one (1) of this ordinance shall be found to be infested with any live scale or insect pests detrimental or injurious to fruit trees or the product thereof, or to plant life, such infested articles shall be removed from the limits of the county within forty-eight hours, at the expense of the owner, agent or shipper, or destroyed. The owner, agent or shipper shall have the right to elect as to the removal of said infested articles from the county or to have the same destroyed, by order and under the direction of the county commissioner of horticulture.

SEC. 3. Whenever the county commissioner of horticulture for the safety of the horticultural interests of the county, he may hold in quarantine for subsequent inspection or disinfection, or both, any of the

articles mentioned in section one (1) of this ordinance, for fourteen days or less, as in his judgment is necessary.

SEC. 4. The county commissioner of horticulture is hereby authorized to require any or all articles as enumerated in section one (1) of this ordinance brought into San Joaquin County to be disinfected, even though a careful inspection by a horticultural commissioner or local inspector should show such articles to be apparently free from scale or insect pest.

SEC. 5. Every owner or owners, person or persons in charge or possession of any orchard, nursery or premises in San Joaquin County on which are growing any vines, trees, shrubs, plants, vegetables or flowers infested with red or cottony cushion scale, or eggs, larvæ or pupæ thereof, shall, when required by the county commissioner of horticulture, as in his discretion may seem necessary, cut back and disinfect or fumigate said infested trees, vines, shrubs, plants, flowers or vegetables, as well as all other articles as above mentioned that may be in the vicinity of such infested articles, and on refusal or neglect to comply at once therewith, to dig out and destroy the same as said county commissioner of horticulture may direct.

SEC. 6. Any person or persons who shall ship or bring, or cause to be shipped or brought into San Joaquin County any trees, vines, scions, cuttings, grafts, shrubs, fruits, plants or fruit pits shall have placed upon or securely attached to each box, package or separate parcel of such trees, vines, scions, cuttings, grafts, shrubs, fruits, plants, flowers, vegetables or tubers a distinct mark or label showing the name of the owner, agent or shipper and the locality where produced; and in case of nursery stock, also the name and number of each variety contained in the box, package or parcel.

SEC. 7. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not less than ten days nor more than one hundred days, or by a fine not less than ten dollars nor more than one hundred dollars, or by both such fine and imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied, specifying the extent of imprisonment, which must not exceed one day for every two dollars of the fine.

SEC. 8. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SEC. 9. This ordinance shall take effect and be in force on and after the 20th day of April, 1911.

Passed on this 3d day of April, 1911. Ayes—Supervisors Newton, French, Ansbro, Wright and Tretheway. Noes—None.

E. E. TRETHEWAY,

*Chairman of the Board of Supervisors  
of San Joaquin County, California.*

NOTE.—We have only one county ordinance in force in San Joaquin County for the protection of horticulture and agricultural interests and is found very efficient and is not only law but is a law enforced to the



letter. We have the hearty coöperation of all the railroads, express agents, and also the officers at all the boat landings. All goods that we have jurisdiction over are inspected before delivery is given. Any plants carried by the United States mail, the postmaster has agreed to give this office notice of same and as soon as they come out of the post office we have the right to inspect the same or follow them to their destination.

(Signed)            WILLIAM GARDEN,  
*County Horticultural Commissioner.*

#### SOLANO COUNTY.

##### Ordinance No. 65.

SECTION 2. All owners of lands within the said county of Solano are required to eradicate such thistles and weeds, aforesaid, within ninety days after the taking effect of this ordinance, and thereafter to keep their said lands free and clear therefrom. That in the event that any owner of land within the said county of Solano refuses or neglects to eradicate such thistles and noxious weeds from their respective lands within said period, that the same shall be eradicated by the said county of Solano, and that the cost thereof shall be a legal charge against the owner of said land.

SEC. 4. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SEC. 5. That this ordinance shall take effect and be in force immediately after its passage, upon due publication.

Adopted this 3d day of April, A. D. 1905, by the following vote: Ayes—Fleming, Chadbourne, Payne, Widenmann, and Sullivan (chairman). Noes—None.

Approved this 3d day of April, 1905.

J. E. SULLIVAN,  
*Chairman of the Board of Supervisors  
of the said County of Solano.*

Attest: G. G. HALLIDAY,  
*County Clerk.*

#### SONOMA COUNTY.

Ordinance No. 26—An ordinance to promote the horticultural interests of Sonoma county by placing a quarantine on all trees, plants, vines, shrubs, scions, cuttings or grafts, brought into the county.

*The board of supervisors of the county of Sonoma do ordain as follows:*

SECTION 1. No person, or persons, corporation or corporations, either as owner, agent, factor, broker, servant, or employee, shall bring for delivery into Sonoma County, California, from any place or places without said county, any trees, plants, vines, shrubs, scions, cuttings, or grafts, without giving written notice of their arrival at their destination within twenty-four hours thereafter to the horticultural commission of said county, or to the local inspector of the district into which the same are so brought; nor shall either of the persons or parties

above named remove or use or cause the removal of the same from the place of their arrival at their destination, until inspected as hereinafter provided.

SEC. 2. On receiving the notification mentioned in section one hereof, the horticultural commission, or local inspector receiving the same, shall, as soon thereafter as practicable, carefully inspect the articles relative to which said notice was served.

SEC. 3. Any person or persons within the county of Sonoma who shall ship or bring, or cause to be shipped or brought into Sonoma County, California, any trees, vines, scions, cuttings, grafts, shrubs, or plants, shall have placed upon and securely attached to each box, package or separate parcel of such articles, a distinct mark or label showing the name of the owner, agent or shipper, the name of the grower and the place where grown.

SEC. 4. It shall be the duty of the county horticultural commission to enforce the provisions of this ordinance, and for such purpose it may make such rules and regulations as in its judgment is necessary to make such ordinance effective.

SEC. 5. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not less than five days nor more than six months, or by fine of not less than five dollars, nor more than five hundred dollars, or by both such fine and imprisonment.

A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine be satisfied, specifying the extent of the imprisonment, which must not exceed one day for every dollar of the fine.

SEC. 6. This ordinance shall take effect and be in force on and after the 26th day of December, 1891.

SEC. 7. All ordinances or parts of ordinances now in force and in conflict with this ordinance are hereby repealed.

F. A. SMITH,

*Chairman of the Board of Supervisors.*

#### STANISLAUS COUNTY.

Ordinance No. 60—An ordinance relating to the bringing and importing vines, grapevine cuttings, nursery stock, trees, shrubs, plants, grafts, scions, buds or fruit pits into the county of Stanislaus.

*The board of supervisors of the county of Stanislaus do ordain as follows:*

SECTION 1. It is hereby declared unlawful for any person, firm or corporation to bring into the county of Stanislaus any rooted grapevine.

SEC. 2. It is hereby declared unlawful for any person, firm or corporation, to bring into the county of Stanislaus any unrooted grapevine cutting, unless the same has been fumigated with bisulphide of carbon immediately before bringing it into the county or the same is immediately fumigated after arrival and before being taken to the place where the same is to be planted.

SEC. 3. Any person, firm or corporation, either as owner or agent, who shall receive, bring or cause to be brought into the county of Stanislaus any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds or fruit pits. shall within twenty-four hours after the arrival thereof, notify the horticultural commissioner or the quarantine guardian of the district in which such nursery stock is received, of its arrival, and hold the same until said quarantine officer orders the delivery.

SEC. 4. It is hereby declared to be unlawful for any person, firm or corporation to knowingly bring, ship, carry or transport into the county of Stanislaus any trees, plants, vines, shrubs, scions, cuttings or grafts infested with codling moth, scale or any other injurious insects or their larvæ, or Russian thistle, that is injurious to fruit, fruit trees, vines or other plants or vegetables.

SEC. 5. Any person, firm or corporation violating this ordinance is guilty of a misdemeanor and is punishable by a fine not exceeding the sum of five hundred dollars or imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.

SEC. 6. This ordinance shall take effect from and after fifteen days after the passage and publication thereof.

Adopted this 13th day of December, 1905, in open session of the board by the following vote: Ayes—J. W. Davison, W. F. Coffee, A. E. Clary, and T. J. Carmichael. Noes—None. Absent—M. A. Lewis.

T. J. CARMICHAEL,

*Chairman of the Board of Supervisors.*

#### SUTTER COUNTY.

**An ordinance to prevent the introduction and spread of phylloxera and Anaheim or mysterious vine disease in the county of Sutter, State of California, and to provide for the disinfection of grapevine cuttings, and the limbs and scions thereof, etc.**

*The board of supervisors of the county of Sutter, State of California, do ordain as follows:*

SECTION 1. That no person or persons, firm, corporation or association of persons shall import, bring, convey, ship, haul, transport or in any wise deliver into this the county of Sutter, State of California, or any part or portion of this county, nor shall any person or persons, firm, corporation or association of persons receive as owner, agent, representative, assignee or consignee in this the said county of Sutter or any part or portion thereof, any grapevines, grapevine roots or grapevine rootlings, of any species, unless such person, firm, corporation or association of persons, owner, agent, representative, assignee, or consignee, shall first receive or obtain from the state commissioner of horticulture of the State of California, a written certificate showing that phylloxera and Anaheim or mysterious vine disease, has not existed in the county from which such grapevines, grapevine roots, or grapevine rootlings were propagated, raised or grown, for the period of five years immediately preceding such shipment thereof.

SEC. 2. That no person or persons, corporation or association of



persons, either as owner, agent, factor, broker, servant or employee, shall bring for delivery into the county of Sutter from any place without said county of Sutter, any grapevine cuttings or the scions, buds or limbs of any grapevine, without giving written notice of their arrival at their destination within twenty-four hours thereafter to the horticultural commissioners of said county of Sutter; nor shall any of the persons or parties above named remove, or permit to be removed, or use or cause the removal of the same from the place of their arrival until inspected by the horticultural commissioners of the county of Sutter. If, upon such inspection, said horticultural commissioners of said county of Sutter deem that said grapevine cuttings, scions, buds and limbs of any grapevine should be disinfected to guard against either of said diseases above named then said horticultural commissioners shall disinfect or cause said grapevine cuttings, scions, buds and limbs of grape vines to be disinfected at the expense of the owner or consignee.

SEC. 3. Any and all grapevines or their roots, rootlings, cuttings, limbs, and the scions or buds of grapevines brought into this county, or that may hereafter be brought into this county, not in accordance with the restrictions in this ordinance specified are hereby declared to be a nuisance, and it is hereby made the duty of the said board of horticultural commissioners of said Sutter County to seize and destroy the same, and to take all proper measures to enforce this ordinance.

SEC. 4. Any person or persons, firm, corporation or association of persons violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment, or either, at the discretion of the court.

SEC. 5. This ordinance shall take effect on the 24th day of November, 1906, and before taking effect shall be published for one week in the "Sutter County Farmer," a newspaper printed and published weekly in said Sutter County.

Passed and approved by the board of supervisors of the county of Sutter, State of California, this 8th day of November, 1906, by the following vote: Ayes—F. H. Graves, E. J. White, W. P. Niesen, John Burns, F. J. Michel. Noes—None.

F. H. GRAVES,

*Chairman of the Board of Supervisors of the  
County of Sutter, State of California.*

#### TEHAMA COUNTY.

Ordinance No. 34—An ordinance prohibiting the importation of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions or buds known to be infested or to carry the Florida white fly (*Aleyrodes citri*) into the county of Tehama, State of California.

*The board of supervisors of the county of Tehama do ordain as follows:*

SECTION 1. Any person, persons, firm or corporation who shall ship, bring or cause to be brought into the county of Tehama, State of California, any nursery stock, trees, shrubs, plants, vines, cuttings, grafts,

scions or buds known to be infested or to carry the Florida white fly (*Aleyrodes citri*) is guilty of a misdemeanor and punishable by a fine not less than twenty-five dollars or by imprisonment in the county jail of the county of Tehama not less than twenty-five days.

SEC. 2. This ordinance shall take effect and be in force from and after fifteen days after its passage, and before the expiration of the said fifteen days the same shall be published with the names of the members voting for and against the same for one week in the "Red Bluff Daily News," a newspaper published in the county of Tehama, State of California.

Passed and adopted this 7th day of January, A. D. 1908.

H. C. KAUFFMAN,

*Chairman (pro tem.) of the Board of Supervisors of  
the County of Tehama, State of California.*

#### VENTURA COUNTY.

**Ordinance No. 151—An ordinance to promote the horticultural interests of Ventura county, California, and providing for the inspection and destruction of insect pests, and providing restrictions upon the importation of cuttings, etc.**

*The board of supervisors of Ventura county, State of California, do  
ordain as follows:*

SECTION 1. No person or persons, firm or corporation, either as owner, agent, factor, broker, servant or other employee, shall bring for delivery or cause to be brought for delivery, into the county of Ventura, from any other place or places, without said county, or from one district to another district within said county, any trees, plants, vines, fruit, fruit pits, shrubs, scions, cuttings, buds, or grafts, boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts or fruit without giving written notice of their arrival at their destination within twenty-four hours thereafter, and prior to their removal from said point of destination to the horticultural commissioners of said county, or to the local inspector of the district into which the same are so brought; nor shall either of the persons, parties, or corporations above named remove the same from the place of their destination until inspected as hereinafter provided.

SEC. 2. No person or persons either as owner, agent, servant or employee, shall keep in store, plant, sell or expose for sale, give away or otherwise distribute any of the articles mentioned in section one (1) of this ordinance, or cause or permit the same to be stored, planted, sold, exposed for sale, given away or otherwise distributed whether said articles were brought into said county of Ventura, State of California, or were raised or grown in said county, if they are infested with any insect pest or their eggs, larvæ or pupæ, or have any disease or fungus detrimental or injurious to vines or fruit trees or the produce thereof, or to plant life; nor until they shall have first been inspected as provided in section four (4) of this ordinance.

SEC. 3. Any person or persons, corporation or corporations mentioned in section one (1) of this ordinance who shall ship or bring or cause to be brought or shipped into Ventura County, California, any trees, cuttings, buds, grafts, shrubs or plants, shall have placed upon or securely attached to each package, box or separate parcel of such articles a distinct mark or label, showing the name of the owner, agent or shipper, the name of the grower and the place where grown.

SEC. 4. Upon receiving the notification mentioned in section one (1) hereof, or any other information of such importation, the horticultural commission, or the local inspector receiving the same, shall, as soon thereafter as practical, carefully inspect the article, reference to which notice was served or information received. If it appears that the importation is of citrus trees, fruits, shrubs, scions, cuttings, grafts or buds, and that the same were grown in the states of Louisiana, Florida, Yuba County, California, or any other place infested with the white fly (*Aleyrodes citri*), red spider (*Tetranychus mytilaspidis*), red scale (*Chrysomphalus aurantii*), yellow scale (*Chrysomphalus aurantii citrinus*), purple scale (*Lepidosaphes beekii*), or any other injurious insects, not prevalent in that locality, it shall be the duty of the horticultural commission to at once cause the same to be disinfected by a thorough application of kerosene emulsion. After such application the tree, shrub, scion, cutting, graft or buds shall remain in the custody of the importer in a place thoroughly isolated from any other citrus trees, fruits, shrubs, scions, cuttings, grafts or buds, and such places to be so arranged that if the same are infested with the white fly, red spider, red scale, yellow scale, or purple scale, said insect could not escape therefrom to other trees or plants in the neighborhood, and if not so isolated said plants are hereby declared to be a public nuisance, and it shall be the duty of the horticultural commission to cause the same to be destroyed.

Two weeks after the first application as herein provided the same shall be again thoroughly treated to a kerosene emulsion, and again at the end of another period of two weeks the same shall be treated for the third time with kerosene emulsion. Thereafter such importation shall remain in the custody of the importer and without being set out in orchard form, thoroughly isolated as aforesaid, for a period of at least one year, and the same shall be inspected as often during that period as in the judgment of the horticultural commission may be deemed necessary; and if upon such inspection it appears that the same are in fact infested with white fly, red spider, red scale, yellow scale or purple scale, in any stage of existence, or with their eggs, the entire consignment shall be at once destroyed by the horticultural commission. If it appears that the importation is of boxes, ladders, props, picking sacks, tools or other appliances which have been used in orchards or in connection with the handling or transportation of trees, plants, vines, shrubs, scions, cuttings, buds, grafts, or fruit from any place infected with the white fly, red spider, red scale, yellow scale or purple scale, or if it shall appear that the transportation of the



same is from one district which is infected with the red spider, red scale, yellow scale or purple scale, or any other injurious insect within said county to another district within said county, then it shall be the duty of the horticultural commission to cause the same to be disinfected by a thorough fumigation with cyanide of potassium.

SEC. 5. In addition to the foregoing treatment for the eradication of the insect pests known as the white fly, red spider, red scale, yellow scale or purple scale, in any stage of existence or their eggs, the horticultural commission may require any additional treatment or disinfection which, in their judgment, would more effectively disinfect the same; and shall require the wrappings in which said trees were imported to be burned or thoroughly disinfected.

SEC. 6. If it shall appear that the importation, notice of which is required to be given by section one (1) hereof, consists of grapevines, scions, rootlings, grafts, buds or cuttings from any grapevine grown in or shipped from any county in the State of California north of the north line of San Luis Obispo, Kern, and San Bernardino counties, or from any district infected with phylloxera of the vine, it shall be the duty of the horticultural commissioners to cause said cuttings, vines, rootlings, grafts, scions or buds to be exposed for at least twenty-four hours to a saturated atmosphere of carbon bisulphide. Thereafter the said vines, rootlings, cuttings, grafts, scions or buds, shall remain in the custody of the importer for such length of time as may in the judgment of the horticultural commission be necessary to determine whether or not the same are infected with phylloxera; not, however, less than six months. If at any time it shall appear upon inspection of such importation that the same is infected with phylloxera, the entire consignment shall be destroyed.

SEC. 7. It shall be unlawful to sell or plant in orchard form, or to attach to any growing trees, scions or buds from the states of Florida or Louisiana, or Yuba County, California, without first obtaining from the board of horticultural commissioners a written permit to such sale or use, stating that the same have been inspected and treated as hereinbefore provided, and that in the judgment of the said horticultural commission, the same are free from insect pests.

SEC. 8. It shall be unlawful to sell any vines, cuttings, rootlings, grafts, scions or buds imported from the district north of the north line of Kern, San Luis Obispo, and San Bernardino counties in the State of California, except upon the written permit of the board of horticultural commissioners, stating that said plants have been inspected and treated as hereinbefore provided, and that in their judgment the same are free from insect pests.

SEC. 9. The horticultural commission shall adopt such rules in relation to application for permits provided for in the two preceding sections as in their judgment may be necessary.

SEC. 10. Any person importing for the purpose of sale any citrus plant, tree, vine, cutting, rootling, graft or bud from the states of Florida or Louisiana, Yuba County, California, or from any state or

district or county infected with the white fly, red spider, red scale, yellow scale or purple scale; and any person importing for the purpose of sale any vine, cutting, citrus trees, plant, rootling, graft or bud from any place herein designated as infected with phylloxera, or importing said vine or citrus plants from any other point hereafter designated on the minutes of the board of horticultural commissioners of Ventura County, as a plant infected with the white fly or phylloxera, red spider, red scale, yellow scale or purple scale, respectively, shall pay a license of fifty dollars per quarter, which license shall be in the usual form of county licenses and issued by the tax collector and shall state the place or places for which the holder thereof is licensed and authorized to import as aforesaid. Applications for such licenses shall be made to the said board of horticultural commissioners, and shall be accompanied by a good and sufficient bond with two sureties in the penal sum of five thousand dollars for the faithful compliance with the terms of this ordinance; and when approved by them, the tax collector shall be by them authorized to issue said license, but not before.

SEC. 11. Every person who shall violate any of the provisions of this ordinance shall be deemed 'guilty of a misdemeanor; and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 12. Ordinance No. 18 of Ventura County as passed and adopted by the board of supervisors of said Ventura County on the 2d day of February, 1886, and all other ordinances in conflict with this ordinance, are hereby repealed.

SEC. 13. This ordinance shall take effect and be in force on and after the 10th day of August, 1908, and prior to the expiration of fifteen days from the passage thereof shall be published for at least one week in the "Weekly Democrat," a newspaper of general circulation, printed and published in said county of Ventura, together with the names of the members of the board of supervisors voting for and against the same.

Passed and adopted this 16th day of July, 1908.

[SEAL.]

F. HARTMAN,

*Chairman of the Board of Supervisors of the  
County of Ventura, State of California.*

**Ordinance No. 161—An ordinance regulating the business of fumigating and spraying fruit and nut trees and vines within Ventura county, California.**

*The board of supervisors of the county of Ventura, State of California,  
do ordain as follows:*

SECTION 1. Every person, firm or corporation who engages in, conducts or carries on the business of spraying or fumigating trees, plants, vines or orchards shall first make written application to the county horticultural commissioner, who, upon finding that the applicant understands the proper conduct of such business, and that the implements and apparatus to be used are properly constructed and suitable for

such business, shall issue to said applicant a written permit to carry on said business in this county under the rulings of this ordinance.

SEC. 2. Whenever any person, firm or corporation holding such written permit does or causes to be done any spraying or fumigating in a negligent or unskillful manner, or uses therefor improper materials or an insufficient quantity thereof, or improper apparatus or implements, the board of supervisors of Ventura County may, upon ten days' written notice to such person, and after a hearing upon the matter, revoke and cancel any such written permit granted to him under the terms of this ordinance.

SEC. 3. For the purposes of this ordinance every person, firm or corporation either as owner, lessee or manager, who has charge of or directs the operation of any outfit used in spraying or fumigating trees, plants, vines or orchards on his own account, or an agent of another, shall be deemed to be engaged in such business and shall be required to have a written permit therefor. Any person engaged in the business of fumigating or spraying trees, plants, vines or orchards, or engaged in the work of eradicating insect pests by fumigation, spraying or other methods shall submit to the horticultural commissioner, or his representative or representatives, at any time on demand, a correct statement of the chemicals used or to be used, if fumigated, or ingredients, or strength of materials used, if sprayed, and of any orchard, trees or vines treated or to be treated.

SEC. 4. It shall be the duty of any person, firm or corporation owning or operating an outfit for fumigating or spraying trees, plants, vines or orchards, to report to the county horticultural commissioner at the end of each and every month all work of fumigating, spraying and eradication of insect pests during the current month, giving amount of chemicals used, if fumigated, and material and strength of same, if sprayed; also number of trees, plants and vines treated and the name of owner or owners of the same.

SEC. 5. Every person, firm or corporation engaged in the business of fumigating or spraying trees, plants, vines or orchards under this ordinance who violates any of the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding one hundred days or by a fine not exceeding two hundred dollars (\$200.00), or by both such imprisonment and fine.

SEC. 6. This ordinance shall take effect and be in force from and after the 15th day of August, 1910, and before the expiration of fifteen days after its passage it shall be published, with the names of the members of said board of supervisors voting for and against the same, for at least one week, in the "Santa Paula Chronicle," a newspaper of general circulation printed and published in said county of Ventura.

Passed and adopted this 18th day of July, 1910.

T. S. CLARK,

*Chairman of the Board of Supervisors of the  
County of Ventura, State of California.*



NOTE.—In regard to the county ordinances, will state that they seem sufficient to permit good quarantine work, as well as successful control work on pests already introduced. The standardizing of work provided for in Ordinance 161 is a strong point. At present there is an amendment before the board of supervisors to provide for absolute quarantine against districts infected with red, yellow, or purple scale, white fly, phylloxera, and the alfalfa weevil.

(Signed) R. S. VAILE,  
*County Horticultural Commissioner.*

#### YUBA COUNTY.

An ordinance to prevent the introduction and spread of phylloxera and Anaheim or mysterious vine disease in the county of Yuba, State of California, and to provide for the disinfection of grapevine cuttings and the limbs and scions thereof, etc.

*The board of supervisors of the county of Yuba, State of California, do ordain as follows:*

SECTION 1. That no person or persons, firm, corporation or association of persons shall import, bring, convey, ship, haul, transport, or in anywise deliver into this county of Yuba, State of California, or any part or portion of this county, nor shall any person or persons, firm, corporation or association of persons receive as owner, agent, representative, assignee, or consignee in this the said county of Yuba or any part or portion thereof, any grapevines, grapevine roots or grapevine rootings, of any species, unless such person, firm, corporation or association of persons, owner, agent, representative, assignee, or consignee, shall first receive or obtain from the state commissioner of horticulture of the State of California, a written certificate showing that phylloxera and Anaheim or mysterious vine disease, has not existed in the county from which such grapevines, grapevine roots or grapevine rootlings were propagated, raised or grown, for the period of five years immediately preceding such shipment thereof.

SEC. 2. That no person or persons, corporation or association of persons either as owner, agent, factor, broker, servant or employee shall bring for delivery into the county of Yuba from any place without said county of Yuba, any grapevine cuttings or the scions, buds or limbs of any grapevine, without giving written notice of their arrival at their destination within twenty-four hours thereafter to the horticultural commissioners of said county of Yuba; nor shall any of the persons or parties above named, remove or permit to be removed, or use, or cause the removal of the same from the place of their arrival until inspected by the horticultural commissioners of the county of Yuba. If upon such inspection, said horticultural commissioners of the county of Yuba deem that said grapevine cuttings, scions, buds and limbs of any grapevine should be disinfected to guard against either of said diseases above named, then said horticultural commissioners shall disinfect or cause said grapevine cuttings, scions, buds and limbs of grapevines to be disinfected at the expense of the owner or consignee.

SEC. 3. Any and all grapevines or their roots, rootlings, cuttings, limbs, and the scions or buds of grapevines brought into this county, or that may hereafter be brought into this county, not in accordance with the restrictions in this ordinance specified are hereby declared to be a nuisance, and it is hereby made the duty of the said board of horticultural commissioner of said Yuba County to seize and destroy the same, and to take all proper measures to enforce this ordinance.

SEC. 4. Any person or persons, firm, corporation or association of persons violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment, or either, at the discretion of the court.

SEC. 5. This ordinance shall take effect on the 8th day of December, 1906, and before taking effect shall be published for one week in the "Appeal," a newspaper printed and published semi-weekly in said Yuba county.

Passed and approved by the board of supervisors of the county of Yuba, State of California, this eighth day of December, 1906, by the following vote: Ayes—W. J. Mellon, A. G. Wheaton, F. Roberts. Noes—None.

D. MORRISON,

*Chairman of the Board of Supervisors of the  
County of Yuba, State of California.*

NOTE.—There has been but one county ordinance passed in Yuba county. This forbids the bringing into the county of rooted grapevines unless the same have been passed by the state commissioner of horticulture. There has been no objection to this ordinance, and it has been enforced during incumbency of county commissioner.

(Signed)

G. W. HARNEY,

*County Horticultural Commissioner.*

## JOHNSON GRASS.

**This law on Johnson grass is now effectively operative only in counties where there is no County Board of Horticultural Commissioners or where there is no County Horticultural Commissioner.**

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An act to prevent the propagation by the production of seed, of that certain plant known as *Sorghum halepense*, otherwise known as Johnson grass.

[Approved March 20, 1903. Amended March 22, 1907.]

SECTION 1. It shall be unlawful for any person owning, controlling, leasing, or possessing land in the State of California, to knowingly permit that certain grass known as *Sorghum halepense*, otherwise known as Johnson grass, *Cnicus arvensis*, otherwise known as Canadian thistle, *Salsoli kali*, otherwise known as Russian thistle, *Onopordon acanthium*, otherwise known as Scotch thistle, and *Cnicus lanceolatus*, otherwise known as bull thistle, to mature and disseminate its seed on land so owned, leased or possessed by such person.

SEC. 2. It shall be unlawful for any person knowingly to sow or disseminate, or cause to be sown or disseminated, any seed of *Sorghum halepense*, otherwise known as Johnson grass, *Cnicus arvensis*, otherwise known as Canadian thistle, *Salsoli kali*, otherwise known as Russian thistle, *Onopordon acanthium*, otherwise known as Scotch thistle, and *Cnicus lanceolatus*, otherwise known as bull thistle, upon any land owned or possessed by another.

SEC. 3. It shall be unlawful for any person to knowingly sow, disseminate, or cause or permit to be disseminated any seed of *Sorghum halepense*, otherwise known as Johnson grass, *Cnicus arvensis*, otherwise known as Canadian thistle, *Salsoli kali*, otherwise known as Russian thistle, *Onopordon acanthium*, otherwise known as Scotch thistle, and *Cnicus lanceolatus*, otherwise known as bull thistle, over or along any roadway, highway, or right of way for ditch purposes, adjacent to premises owned or possessed by him.

SEC. 4. Any person upon being duly convicted of a violation of any of the preceding sections of this act, shall be guilty of a misdemeanor, and may be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail, for a term not exceeding three months.

(Section 4 of the amendment approved March 22, 1907, reads: "All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.")

SEC. 5. This act shall take effect and be in force from and after its passage.





## STATE QUARANTINE LAW.

An act to provide for the protection of horticulture and to prevent the introduction into this state of insects or diseases, or animals, injurious to fruit or fruit trees, vines, bushes or vegetables, providing for a quarantine for the enforcement of this act, making a violation of the terms of the act a misdemeanor, and providing the penalty therefor; providing that said act shall be an urgency measure and go into effect immediately, and repealing that certain act entitled "An act for the protection of horticulture and to prevent the introduction into this state of insects, or diseases, or animals, injurious to fruit or fruit trees, vines, bushes or vegetables, and to provide for a quarantine for the enforcement of this act," approved March 11, 1899.

[Approved January 2, 1912.]

*The people of the State of California do enact as follows:*

SECTION 1. Any person, persons, firm or corporation who shall receive, bring or cause to be brought into the State of California, any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds or fruit pits, or fruit or vegetables, or seed, shall immediately after the arrival thereof notify the state commissioner of horticulture, or deputy quarantine officer, or quarantine guardian of the district or county in which such nursery stock, or fruit or vegetables or seed are received, of their arrival, and hold the same without unnecessarily moving the same, or placing such articles where they may be harmful, for the immediate inspection of such state commissioner of horticulture, or deputy quarantine officer or guardian. If there is no quarantine guardian or state horticultural quarantine officer in the county where such nursery stock or fruit or vegetable, or seed is received, it shall then be the duty of such person, persons, firm or corporation to notify the state commissioner of horticulture, who shall make immediate arrangements for their inspection. The state commissioner of horticulture, deputy quarantine officer, quarantine guardian or such person or persons as shall be commissioned by the state commissioner of horticulture to make such inspection, or to represent said commissioner, is hereby authorized and empowered to enter at any time into any car, warehouse, depot or upon any ship within the boundaries of the State of California whether in the stream or at the dock, wharf, mole, or any other place where such nursery stock or fruit or vegetables or seed or other described articles are received or in which such nursery stock or fruit or vegetables or seed is imported into the state, for the purpose of making the investigation or examination to ascertain whether such nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit, vegetables or seed is infested with any species of injurious insects, or their eggs, larvæ or pupæ or other animal or plant disease.

If after such examination or inspection, any of the said described articles are found to be so infested or infected as aforesaid, then it shall

be the duty of the owner, owners, or persons, firm or corporation having charge or possession thereof to so disinfect at his or their expense such portion or portions of the ship, dock, wharf, mole, car, warehouse or depot where said articles may have been located in such a manner as to destroy all infection or infestation present or that is liable to be present. and all articles or packages or soils apt to be so infested or infected shall be held until the said articles or packages or soils have been thoroughly disinfected and all injurious insects, or their eggs, larvæ or pupæ or other animal or plant disease have been eradicated and destroyed; *provided, however*, that all articles of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruits, vegetables or seed which are infested or infected with such species of injurious insects or their eggs, larvæ or pupæ or other animal or plant disease which may be or be liable to be injurious to the orchards, vineyards, gardens or farms within said state, shall be destroyed or reshipped out of the state as hereinafter provided. The said officer so making such inspection shall not permit any of the described articles so coming in contact with said infested or infected articles or any articles which might convey infection or infestation to be removed or taken from any such car, warehouse, depot, ship, dock, wharf or any other place until after such infection or infestation shall have been destroyed.

SEC. 2. Each carload, case, box, package, crate, bale or bundle of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables or seed, imported or brought into this state, shall have plainly and legibly marked thereon in a conspicuous manner and place the name and address of the shipper, owner, or owners or person forwarding or shipping the same, and also the name of the person, firm or corporation to whom the same is forwarded or shipped, or his or its responsible agents, also the name of the country, state or territory where the contents were grown and a statement of the contents therein.

SEC. 3. When any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits or seed or vegetables or fruit, imported or brought into this state, is found infested or infected with any species of injurious insects, or their eggs, larvæ or pupæ or other animal or plant disease or there is reasonable cause to presume that they may be so infested or infected, which would cause damage, or be liable to cause damage, to the orchards, vineyards, gardens or farms of the State of California, or which would be or be liable to be detrimental thereto or to any portion of said state, or to any of the orchards, vineyards, gardens or farms within said state such shipment shall be immediately destroyed by the state commissioner of horticulture, his deputy quarantine officer, quarantine guardians or other person or persons, who shall be commissioned by the state commissioner of horticulture to make such inspection; *provided, however*, that if the nature of the injurious insects, or their eggs, larvæ, pupæ or animal



or plant disease be such that no damage or detriment can be caused to the said orchards, vineyards, gardens or farms of California or any of the same by the shipment of the same out of the state, then the said state commissioner of horticulture, his deputy quarantine officer, quarantine guardians or other person or persons who shall be commissioned by the state commissioner of horticulture to make such inspection, and who shall make such inspection, shall notify the owner or person, firm or corporation having possession or control of said articles to ship the same out of the state within forty-eight hours after such notification, and it shall be the duty of such owner or owners, or person, firm or corporation, to so ship said articles, but such shipment shall be under the sole direction and control of the officer so making the inspection and shall be at the expense of the owner or owners, his or their agent or agents, and for a failure to comply with such notice such owner or owners, his or their agent or agents shall be deemed guilty of a violation of the terms of this act and be punished accordingly and immediately after the expiration of the time specified in said notice said articles shall be seized and destroyed by said officer at the expense of the said owner or owners, his or their agent or agents.

SEC. 4. When any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, fruit, fruit pits, vegetables or seed, or any other horticultural or agricultural product passing through any portion of the State of California in transit, is infested or infected with any species of injurious insects, their eggs, larvæ or pupæ or animal or plant disease, which would cause damage, or be liable to cause damage to the orchards, vineyards, gardens or farms of the State of California, or which would be, or be liable to be, detrimental thereto or to any portion of said state, or to any of the orchards, vineyards, gardens or farms within said state, and there exists danger of dissemination of such insects or disease while such shipment is in transit in the State of California, then such shipment shall be placed within sealed containers, composed of metallic or other material, so that the same can not be broken or opened, or be liable to be broken, or opened, so as to permit any of the said shipment, insects, their eggs, larvæ or pupæ or animal or plant disease to escape from such sealed containers and the said containers shall not be opened while within the State of California.

SEC. 5. No person, persons, firm or corporation shall bring or cause to be brought into the State of California any fruit or vegetable or host plant which is now known to be, or hereafter may become a host plant or host fruit of any species of the fruit fly family *Trypetidæ* from any country, state or district where such species of *Trypetidæ* is known to exist and any such fruit, vegetable, or host plant, together with the container and packing, shall be refused entry and shall be immediately destroyed at the expense of the owner, owners or agents.

SEC. 6. No person, persons, firm or corporation shall bring or cause to be brought into the State of California any peach, nectarine, or

apricot tree or cuttings, grafts, scions, buds or pits of such trees, or any trees budded or grafted upon peach stock or roots that have been in a district where the disease known as "peach yellows" or the contagious disease known as "contagious peach rosette" are known to exist, and any such attempting to land or enter shall be refused entry and shall be destroyed or returned to the point of shipment at the option of the owner, owners or agent, and at his or their expense.

SEC. 7. No person, persons, firm or corporation shall bring or cause to be brought into the State of California any injurious animals known as English or Australian wild rabbit, flying fox, mongoose or any other animal or animals detrimental to horticultural or agricultural interests.

SEC. 8. Any person, persons, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not exceeding six months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

SEC. 9. It is hereby determined and declared that this act and each and all of the provisions thereof, constitute and is an urgency measure necessary for the immediate preservation of the public safety and health. The facts constituting such necessity are as follows: There now exists in various islands and territory in close proximity to the State of California dangerous and injurious fruit and plant diseases and insects and animals, and heretofore fruits, vegetables, plants, seeds and other articles of horticulture and agriculture from said islands and territory have been and now are being shipped and brought into the State of California, which are to a large extent infested and infected with dangerous and injurious fruit and plant diseases and insects, their eggs, larvæ and pupæ, and which if continued to be brought into the state will cause great danger to the public health, and will greatly damage the horticultural and agricultural interests of said state, and will also be detrimental to the public health, and this act is necessary to provide ample power to prevent the introduction of such insects and diseases and injurious animals into the state and to prevent the spread of such disease, insects and animals.

SEC. 10. That certain act entitled "An act for the protection of horticulture, and to prevent the introduction into this state of insects, or diseases, or animals, injurious to fruit or fruit trees, vines, bushes, or vegetables, and to provide for a quarantine for the enforcement of this act," approved March 11, 1899, is hereby repealed.

SEC. 11. This act, being an urgency measure as above set forth, shall take effect and be in full force immediately from and after its passage.

# COUNTY HORTICULTURAL COMMISSIONERS, DEPUTIES AND INSPECTORS.

## ALAMEDA.

### Commissioner.

Fred Seulberger -----Oakland

### Inspectors.

H. R. Hunt -----Niles

W. H. Tyson -----Niles

Edlif Peterson -----Hayward

D. P. T. Macdonald -----Oakland

## BUTTE

### Commissioner.

Earl Mills -----Oroville

### Deputy Commissioner.

T. F. Stile -----Chico

### Inspectors.

\*B. F. Reppert -----Thermalito

\*W. D. Burleson -----Gridley

\*W. M. Pence -----Paradise

## COLUSA.

### Commissioner.

L. R. Boedefeld -----Colusa

### Inspectors.

W. A. Ellwood -----Arbuckle

Ira A. Fouch -----Williams

## CONTRA COSTA.

### Commissioner.

Frank T. Swett -----Martinez

### Inspectors.

\*Percy Douglas -----Clayton

\*Geo. Sellers -----Oakland

## EL DORADO.

### Commissioner.

J. E. Hassler -----Placerville

## FRESNO

### Commissioner.

F. C. Schell -----Fresno

### Inspectors.

W. J. Puleston -----Fresno

C. B. Harkness -----Fresno

\*Henry Hechtman -----Kerman

## HUMBOLDT.

### Board of Horticultural Commissioners.

G. E. Stewart, Chairman -----Rohnerville

J. E. Janssen, Secretary -----Eureka

D. D. Averill -----Arcata

### Inspector.

A. D. Roberts -----Eureka

\*Employed only part of the time.



**IMPERIAL.***Commissioner.*

W. E. Wilsie ----- El Centro

*Inspectors.*

\*Willis Carothers ----- Brawley  
 \*W. S. Hoyt ----- Holtville  
 \*A. Steindorf ----- Calexico  
 \*F. W. Waite ----- El Centro

**INYO.***Board of Horticultural Commissioners.*

W. H. Wells, Chairman ----- Round Valley  
 A. P. Smith ----- Big Pine  
 R. C. Spear ----- Lone Pine

**KERN.***Commissioner.*

D. Hirschfield ----- Bakersfield

*Deputy Commissioner.*

K. S. Knowlton ----- Bakersfield

*Inspectors.*

\*N. P. Schulz ----- Delano

**KINGS.***Commissioners.*

B. V. Sharp ----- Hanford  
 A. C. Eccles ----- Lemoore

**LAKE***Commissioner.*

G. A. Lyons ----- Lakeport

**LASSEN.***Board of Horticultural Commissioners.*

I. N. Jones, Chairman ----- Susanville  
 Geo. B. King ----- Bieber  
 E. A. Jordan ----- Janesville

**LOS ANGELES.***Commissioner.*

A. R. Meserve ----- Los Angeles

*Deputy Commissioner.*

William Wood ----- Whittier

*Inspectors.*

Thos. Vacher ----- Los Angeles  
 A. F. Stearns ----- Los Angeles  
 P. E. Edouart ----- Los Angeles  
 N. S. Montague ----- Los Angeles  
 M. Shepherd ----- Los Angeles  
 B. R. Jones ----- Los Angeles  
 H. N. Marr ----- Los Angeles  
 L. A. Strong ----- Los Angeles  
 A. T. Garey ----- Los Angeles  
 C. T. Goodman ----- Los Angeles  
 G. A. Helmstader ----- Los Angeles  
 F. H. Merleau ----- Los Angeles  
 W. E. Dougherty ----- Azusa  
 F. Ferguson ----- Duarte

\*Employed only part of the time.

## LOS ANGELES—Continued.

*Inspectors*—Continued.

J. Thorndike	Pasadena
R. R. Hodges	Covina
S. L. Spencer	Covina
F. A. Haines	Lancaster
D. W. Beupree	Lankershim
Harry Moss	Rivera
Wm. Johns	Monrovia
J. L. Rickson	San Fernando
M. W. Sweigart	Whittier
A. G. Smith	Pasadena
H. E. Walker	San Dimas
H. W. Meserve	Redondo
L. H. Mayet	Hollywood

## MADERA.

*Commissioner.*

Geo. Marchbank	Madera
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## MENDOCINO.

*Commissioner.*

J. R. Banks	Ukiah
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*Inspectors.*

*O. R. Myers	Hopland
*Geo. Busch	Potter Valley

## MERCED.

*Commissioner.*

N. H. Wilson	Merced
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*Inspectors.*

W. T. Barnes	Erwin City
J. L. McClelland	Los Banos

## MONTEREY.

*Commissioner.*

J. B. Hickman	Aromas
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*Inspector.*

J. B. Saylor	Pleyto
--------------	--------

## NAPA.

*Commissioner.*

A. D. Butler	Napa
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*Inspectors.*

W. V. Gebhardt	Napa
T. J. Greer	St. Helena

## ORANGE.

*Commissioner.*

Roy K. Bishop	Santa Ana
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*Inspectors.*

J. J. Schneider	Anaheim
*James Lake	Huntington Beach
*Frank E. Proud	Fullerton
*Frank Hanzard	Santa Ana

\*Employed only part of the time.

**PLACER.***Commissioner.*

H. H. Bowman-----Bowman

*Inspectors.*

\*A. Fereva-----Newcastle

\*E. W. Crook-----Lincoln

**RIVERSIDE.***Commissioner.*

R. P. Cundiff-----Riverside

*Inspectors.*

Wm. McIntyre-----Riverside

D. H. Parsons-----Riverside

F. P. Babel-----Riverside

A. C. Vaught-----Riverside

H. Clendennen-----Riverside

D. D. Sharp-----Arlington

W. G. Corlett-----Arlington

C. W. Wrestler-----Corona

E. G. Tuthill-----Corona

A. J. Foss-----Corona

H. K. Smith-----San Jacinto

Geo. C. Conklin-----Perris

C. L. Edmunds-----Thermol

W. C. Clewett-----Elsinore

R. L. Wilson-----Beaumont

S. T. Starrett-----Coachella

John R. Dutcher-----Blythe

**SACRAMENTO.***Commissioner.*

F. R. M. Bloomer-----Sacramento

*Inspectors.*

J. Aiken-----Sacramento

S. R. Gage-----Elk Grove

\*Elmore Chase-----Fair Oaks

\*Geo. Thisby-----Walnut Grove

\*Ezra Casselman-----Perkins

\*Fred Grimshaw-----Cosumnes

\*S. P. Gage-----Elk Grove

\*James Tootell-----Florin

\*H. Kerchival-----Courtland

\*Milo Dye-----Walnut Grove

**SAN BENITO.***Commissioner.*

L. H. Day-----Hollister

**SAN BERNARDINO.***Commissioner.*

S. A. Pease-----San Bernardino

*Inspectors.*

John P. Coy-----Highlands

S. J. Bosler-----Rialto

C. T. Paion-----Crafton

C. A. Nelson-----Bryn Mawr

C. Mottsinger-----Cucamonga

\*Employed only part of the time.



**SAN BERNARDINO—Continued.***Inspectors—Continued.*

J. F. Anderson	Upland
W. R. Fox	Colton
W. W. DeHart	Redlands
Chas. Donnelly	Etiwanda
O. J. Newman	Chino
W. H. Codd	Yucaipe

**SAN DIEGO.***Commissioner.*

C. H. Stuart	San Diego
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*Inspectors.*

E. E. Bowen	Escondido
A. E. Juch	Julian
L. V. Dodd	Oceanside
*Dale Smith	Chula Vista

**SAN JOAQUIN.***Commissioner.*

Wm. Garden	Stockton
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*Inspectors.*

J. E. Costello	Acampo
E. E. Welty	Ripon
H. H. Ladd	Stockton
D. Visher	Stockton

**SANTA BARBARA.***Commissioner.*

C. W. Beers	Santa Barbara
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*Deputy Commissioner.*

R. C. Wylie	Santa Maria
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**SANTA CLARA.***Commissioner.*

Earl Morris	San Jose
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**SANTA CRUZ.***Commissioner.*

W. H. Volck	Watsonville
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*Inspector.*

*A. W. Tate	Watsonville
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**SHASTA.***Commissioner.*

Geo. A. Lamiman	Redding
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**SISKIYOU.***Commissioner.*

Joseph F. Wetzel	Yreka
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**SOLANO.***Commissioner.*

C. R. McBride	Vacaville
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*Inspectors.*

*O. E. Merchant	Winters
*W. L. Tutt	Maine Prairie
*John Borges	Benicia

\*Employed only part of the time.

**SONOMA.***Commissioner.*

A. R. Galloway-----Santa Rosa

*Deputy Commissioner.*

W. I. Newcomb-----Sebastopol

*Inspectors.*

\*G. Hagmayer-----Cloverdale

\*Thomas Johnson-----Glen Ellen

\*J. B. Dickson-----Petaluma

**STANISLAUS.***Commissioner.*

A. L. Rutherford-----Modesto

*Inspectors.*

W. F. Wheeler-----Oakdale

Wm. Tardif-----Patterson

**SUTTER.***Commissioner.*

H. P. Stabler-----Yuba City

**TEHAMA.***Commissioner.*

Chas. B. Weeks-----Red Bluff

*Inspector.*

James E. Weeks-----Red Bluff

**TULARE.***Commissioner.*

A. G. Schulz-----Porterville

*Deputy Commissioner.*

P. D. Fowler-----Tulare

*Inspectors.*

Mike Mitchell-----Ducor

W. H. LaBee-----Terra Bella

M. R. Hersey-----Lindsay

O. C. Williams-----Dinuba

W. A. Bates-----Dinuba

C. S. Riley-----Visalia

J. B. Southwell-----Tulare

J. E. Frame-----Porterville

F. L. Kennedy-----Porterville

J. C. Manock-----Angiola

**VENTURA.***Commissioner.*

R. S. Vaile-----Santa Paula

*Inspectors.*

C. W. Decker-----Fillmore

S. H. Essig-----Santa Paula

L. Neville-----Ventura

\*R. E. Harrington-----Santa Susana

*Office Clerk.*

Miss Jean Walden-----Santa Paula

\*Employed only part of the time.

**YOLO.***Commissioner.*

Geo. H. Hecke-----Woodland

*Inspectors.*

J. W. Anderson-----Davis

W. Gould-----Woodland

O. Merchant-----Winters

H. Morrin-----Rumsey

**YUBA.***Commissioner.*

Geo. W. Harney-----Marysville

**STATE BOARD OF HORTICULTURAL EXAMINERS.**A. J. COOK (STATE COMMISSIONER OF HORTICULTURE)-----*President*E. K. CARNES (SUPERINTENDENT OF STATE INSECTARY)-----*Secretary*E. J. WICKSON (DEAN OF THE AGRICULTURAL COLLEGE OF THE UNIVERSITY  
OF CALIFORNIA).





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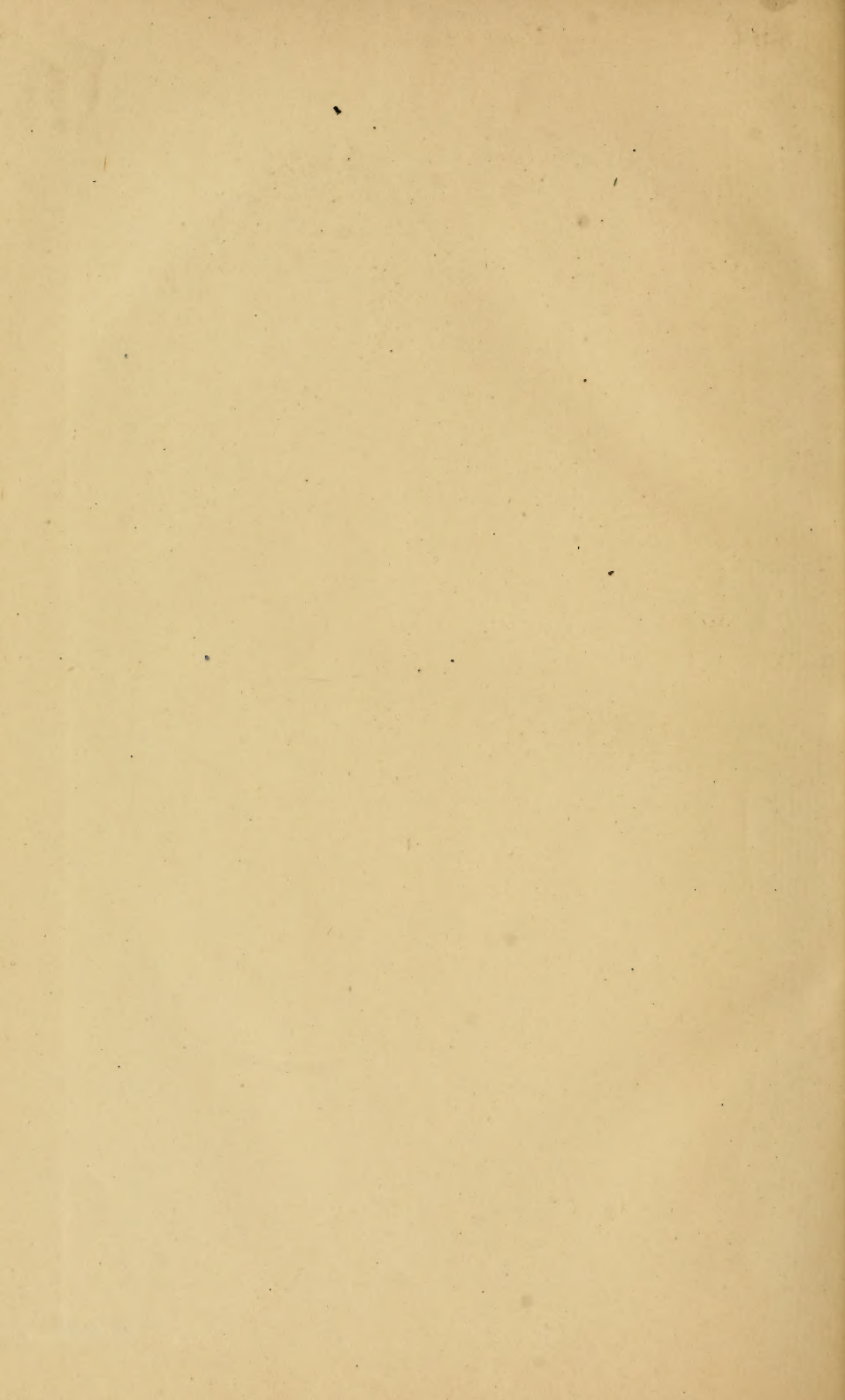
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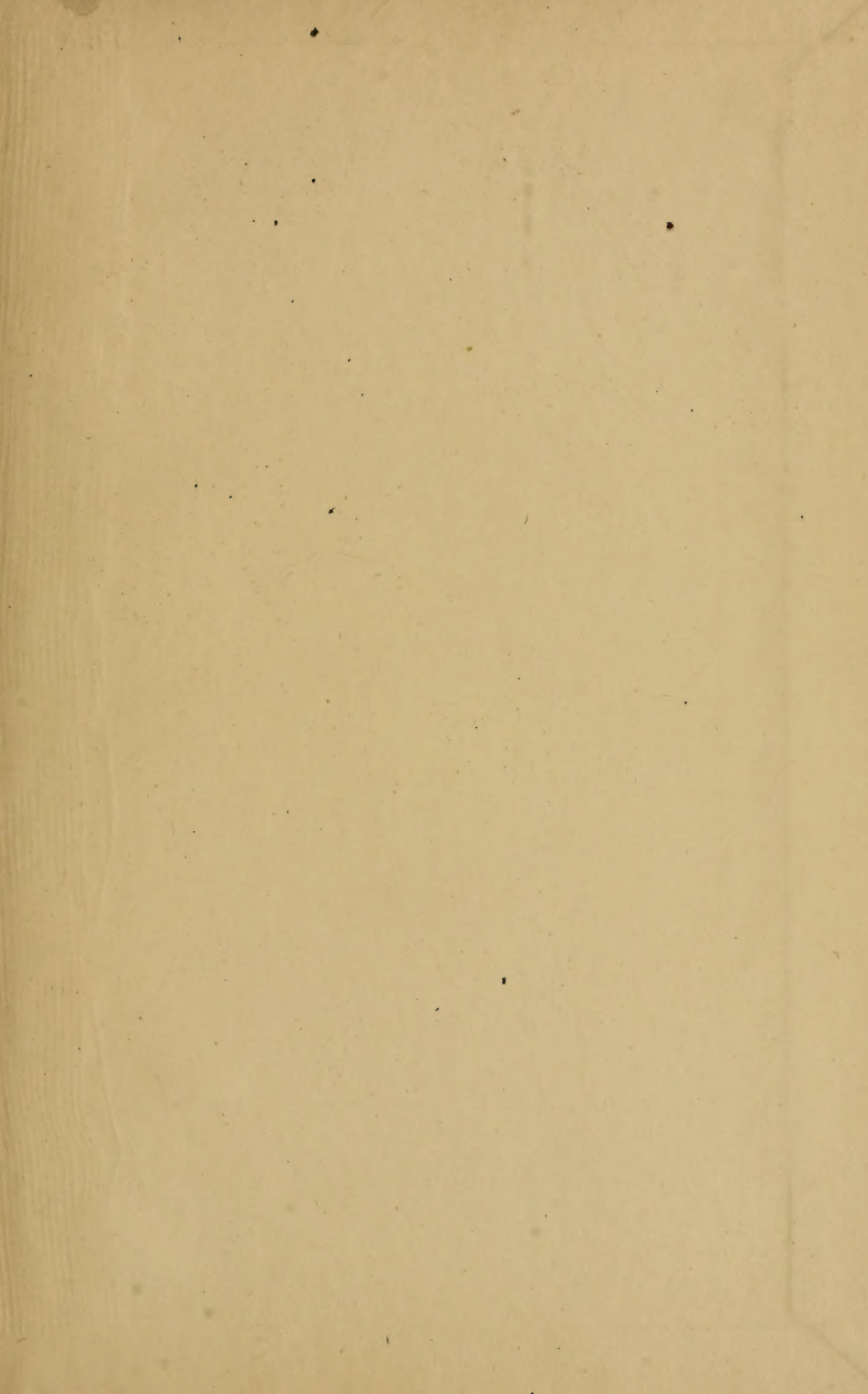














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